



REPORT & RECOMMENDATIONS

National One Day Seminar on Case Management and Summary Judgment Rules (Amendments in CPC)

18th April, 2017

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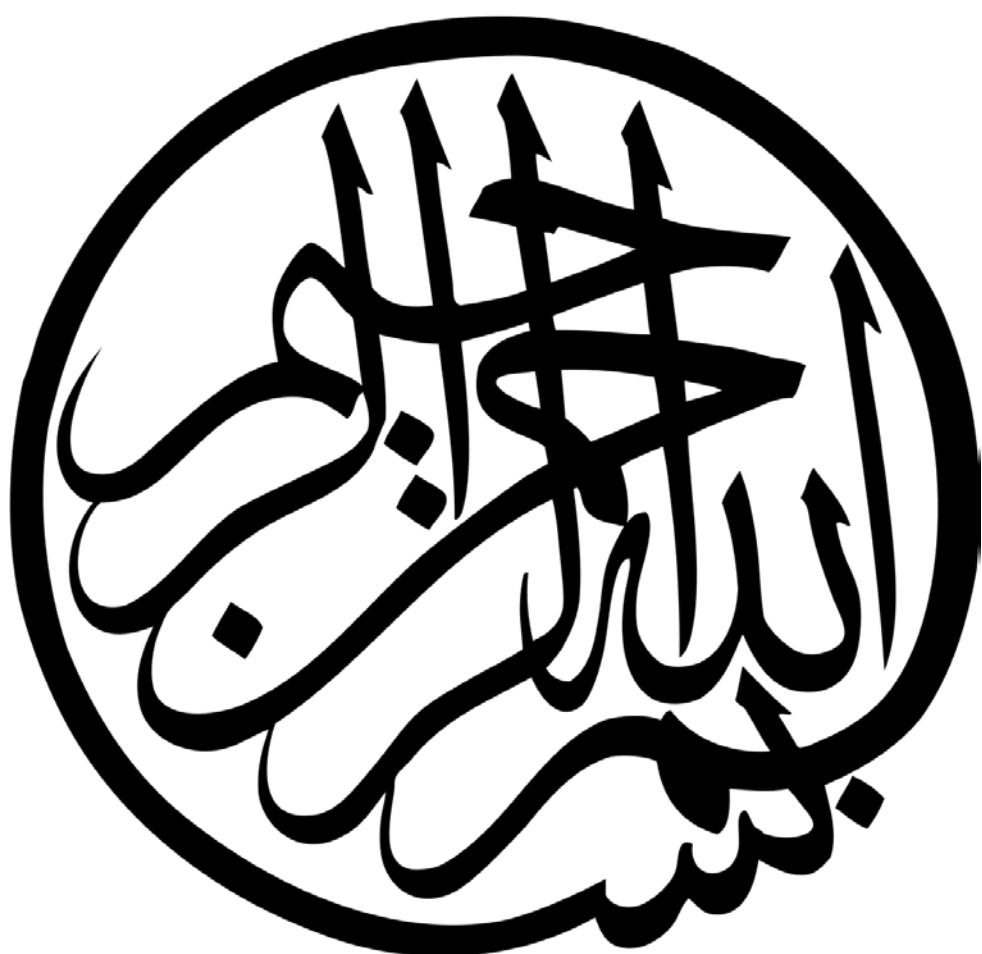


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FOREWORD

The question of delay in deciding civil litigation has become a cliché. In the Pakistani context, this problem has gained utmost primacy due to this proverbial delay. Institutions as well as individuals have grappled with the question to cut down procedures without compromising the fairness of a civil trial. Half-hearted measures have resulted in several amendments in the Civil Procedure Code without the desired effects.

This question is not unique to this country. The United States of America had initiated a paradigm where before going to trial efforts were made by the court not only to arrive at a solution but also understand the problem vis-à-vis the issues between the parties. The same paradigm was introduced by the United Kingdom both with laudatory results. It must be emphasized that no idea towards solution of a social problem could be perfect. However, any steps that result in a better environment towards the ideal goal are worthy of replication. When the Civil Procedure Code was drafted over a hundred years ago and introduced in India, the kernel of the same idea was already present. Hence the procedures of discovery and interrogation were introduced. Unfortunately, these tools already present in the civil procedure went unutilized by the courts. A commission formulated by the government of Privy Council judges noticed this in their report of 1922. However, this too found itself on the shelves collecting dust and nothing more.

Mr. Kamran Basharat, District & Sessions Judge, Islamabad High Court, found the courage to dwell deep into this issue and came up with a draft legislation that would, without disturbing the scheme of the Civil Procedure Code, give the tools to the court to take control of the cases and make the ignored provisions of the Civil Procedure Code effective.

When the Academy came across this draft it was naturally very excited and with a little prodding by the Hon'ble Chief Justice took the bull by the horns in organizing the activity which resulted in the report that is in your hand today. A seminar that forms the

basis of this report was well attended and represented by all the four provinces and a cross-section involving all the stake-holders who are concerned in any manner with civil justice. The idea was not only welcomed unanimously by all the participants but also highly appreciated. The final result of the activity is draft rules that are to be inserted in the Civil Procedure Code. We feel that the adoption of these rules will result in a sea-change in how we handle civil litigation. It shall reduce delay and the resultant costs most considerably. We wish and hope that this activity would result in meaningful changes to the Civil Procedure Code. I wish God-speed in this endeavour.

Muhammad Masood Khan

Director General

DEANs NOTE

As a student of law we were always taught that justice delayed is justice denied. Justice sector of our country may have been trying in its own individual way to curb the menace of delay in disposal of cases. Every institution/individual may have a different methodology. Some person may have succeeded temporarily, however the menace of delayed justice very much exists with all its impacts. Hence, the need for change in our basic paradigm of litigation.

There are two limbs of the problem. Firstly, in civil courts after filing of a suit and even before and after completion of the pleading, the parties to the suit file numerous miscellaneous applications. Usually these applications are not filed simultaneously; rather they are filed without any mechanism, and even continue pouring in after completion of evidence, resulting in tremendous delay in the disposal of the cases. Secondly, after framing the issues, in case remains fixed for the purpose of evidence for years, but the evidence of the parties is not completed.

The structural procedural paradigm of civil litigation in our civil procedure code is only “pleading centric and trial based”. It is high time to realize that it needs immediate attention unless we take some constructive remedial measures, the failure of the system cannot be ruled out.

Almost all the common law countries like USA, UK, Hong Kong and India faced similar problems in the history, and they have coped with these problems by bringing certain structural procedural changes in their civil procedure.

The position with regard to USA and UK has been explained in the concept attached to the report. Increased litigation coupled with the adversarial tactic of the parties choked the system, and during 80s, there was a growing debate in the USA regarding the reforming of the system. The senate judiciary committee debated on reforms, which ultimately led to the passage of civil justice reform act 1990. This Act outlined the problem of cost and delay to the litigant, and initiated an inter institutional policy dialogue on this issue by holding the courts, litigant, litigant attorneys, congress and the executive branch as collectively responsible for adjudication of cases on merits and the ability of civil justice system to provide timely, judicial relief to the aggrieved parties. The Act required all the districts to formulate their delay reduction plans on the basis of three inter related principles: (1) different treatment of cases that provides for individualized and specific management according to their needs, complexity, duration, and probable litigation careers;(2)Early involvement of judicial officer in planning the progress of a case in

controlling the discovery process and scheduling hearing, trial, and other litigation events; (3) Utilization of Alternate Dispute Resolution programs.

These delay reduction plans were overseen by RANND institute, which finally led congress to pass Alternate Dispute Resolution Act 1998. As a result of these developments the structural procedural paradigm of civil litigation in US federal courts is "Discovery-ADR-case management-summary judgment centric and non trial based." This means that with a minimal pleading regime, coupled with effective discovery and efficient case management, there are greater chances of cases to be resolved through ADR and summary judgment, and only small percentage of cases are put to trial for final adjudication. If other countries in the world have successfully changed their modus operandi, it would be wise to follow their example.

In UK, by 1993, there was a growing criticism that the civil litigation was cost time consuming, complex and adversarial. As a result of reforms the structural procedural paradigm of civil litigation in England and Wales is "pre action protocols-ADR-centric and non trial based" these reforms had their successes and failures.

They met criticism on two accounts: Firstly, they could not bring down the cost of litigations; and secondly, the pre action protocols led to the front end clogging of the civil justice system. However, these reforms had a tremendous effect on the civil justice system of UK and other common law countries, the CPR 1999, like FRCP USA, opted for a minimal pleading regime, and the entire procedure is designed in a manner that only fewer cases are left in the court docket to be decided through trial.

These reforms were closely followed by Hong Kong, and in Feb 2000, a working party was appointed to review the civil procedures rules of the High Court, and to recommend changes thereto, with a view to ensuring and improving access to justice at reasonable cost and speed. The working party in its final report titled "Civil Justice Reform" thoroughly discussed the efficacy of the Woolf reforms, and instead of adopting an entirely new code, decided for certain selective amendments in the already available procedure. It also avoided pre action protocols to avoid front end clogging of the system however, this report outlined the importance of incorporating certain underlying case management powers in the rules, empowering the courts to effectively manage cases, and defeat adversarial tactics of the parties. As a result of this report, the Civil procedure code of Hong Kong was selectively amended. The structural procedural paradigm of civil litigation in Hong Kong is "ADR-Discovery-case Management-Summary Judgment centric and Non Trial Based."

In India, three developments greatly affected the structural procedural paradigm of civil litigation: (1) legal services authority act 1987 paved the way for the establishment of lok Adalat which complimented the civil courts in removing the backlog; (2) the Supreme

Court of India in Saleem Bar Association Vs Union of India directed all the High Courts of India to frame their Case Flow Management and Alternate Dispute Resolution Rules. and (3) the law Commission of India, through its various reports, worked on costs and adjournments, for expeditious disposal of cases and curbing frivolous litigation, As a result of these developments the structural procedural paradigm of civil litigation in India is "Pleading Differential Management-ADR centric and Trial Based." Unlike USA and UK, the Civil Procedure Code of India does not contain many procedural instruments for Case Management of cases in different time bound tracks; the structural procedural paradigm of civil litigation is substantially based on setting pleadings and final adjudication of cases through trial. The stages of advanced Discovery regime and summary Judgment are also missing in the practice of Indian civil courts.

Unfortunately, Pakistan has not benefited itself from any of these developments happening around the world. The concepts of Differential Management, Case Management, Discovery Management, Motions Management, Summary Judgment and ADR are still alien to our Civil Justice System. Our efforts to include the concepts of ADR in Civil Procedure Code by insertion of Sec 89-A and O. X A (iii) failed to yield any result because these section of CPC were not complimented by any ADR rules from any High Court. We failed to understand that the concept of ADR does not depend upon the personal initiatives of the judges; rather it depends on a structural-programmatic character of this concept.

Without disturbing the main scheme of Civil Procedure code, or bringing any procedural novation, the amendment in Order IX CPC aspires to employ and graft the techniques of case management derived from FRCP USA and CPR of England & Wales in our Civil Procedure code. These case management techniques will result in shifting the control of civil litigation from the litigants to the courts, extending a pro active managerial role of the presiding Officers. This amendment aspires to create a "Procedural Work Station" wherein all the proceedings are regulated by the presiding Office in a consultative discourse designed to curb delay and defeat adversarial tactics of the parties, Similarly, the amendment in Order XV CPC shall introduce the concept of Summary Judgment in our Civil Procedure, and shall be helpful in the expeditious disposal of those cases, which could be decided without subjecting the parties to the rigors of trial.

It indeed was a historical event at the KP Judicial Academy. The participants included all stakeholder of the justice sector. The Rules Committee of the Hon'able Peshawar High court, Peshawar actively participated in the seminar. The participants included members of almost all the High Courts and Judicial Academies of Pakistan. Lastly it would be unjust not to appreciate someone for his efforts and in this regard, the Academy is indebted to Mr. Kamran Basharat (District & Sessions Judge, Islamabad-West) for the efforts he has put in the development of the concept and for all his efforts in this respect.

It is hoped that the report would be well received. Like always I am open to any useful suggestion which may help us enhance and improve the process of judicial education.

Khwaja Wajihuddin

Dean Faculty

CONCEPT

CONCEPT NOTE	
Reference	<i>S-1/2017//01 Day</i>
Training	<i>One Day National Seminar on Case Management and Summary Judgment Rules (Amendment in CPC)</i>
Duration	<i>01 Day</i>
Participants	<i>Judges, lawyers and members of the rules committee (PHC)</i>
No. of participants	<i>25</i>
Methodology	<i>Participatory, Interactive and Recommendatory</i>
Designed by	<i>Khawaja Wajihudin- Dean Faculty</i>

Abstract:

Clogged system of administration of justice in the country needs revamping . Increased litigation together with the delaying tactics have literally suffocated the system. In a state that can't even structure a system that at least pretends to uphold the legal equality of citizens, everyone will seek power for self-protection. Such a system is the antithesis of rule of law

Overview:

Systems that do not improve with changing circumstances are destined to collapse. There is a need to apply structural and managerial solutions to make the adjudication of the cases efficient, hence the need of law that would help to achieve that goal. The structural procedural paradigm of civil litigation in Pakistan is only "Pleading centric and Trial Based." Without disturbing the main scheme of Civil Procedure Code 1908, or bring any procedural innovation, the amendments in question aspires to employ the techniques of case management effectively.

Background & Scope:

Vide SRO 1038(I)/2016, The Government of Pakistan issued a statutory notification whereby the Islamabad High Court invited objections and suggestions on the proposed case management and summary judgment rules (Amendment in Civil Procedure Code).

Procedures followed in both formal and informal civil justice systems comprise mainly of four stages: (1) Pleadings; (2) Discovery; (3) Equity Shortcuts including Summary Judgments; and (4) Trial. In common law tradition discovery is a mode of litigants conducted investigation, whereas, in civil law tradition it is the investigation done by the judge himself. This procedural sequences of stages also built the underlying skeleton of the Civil Procedure Code, 1908, Pakistan: (1) Order I to IX-Pleadings; (2) Order X to XIV-Discovery/Litigant Conducted Investigation; (3) Order XV-Summary Judgment; and Order XVI to XX-Trial.)

Methodology:

The amendments aspires to create a procedural "Work Station" wherein all the proceedings are regulated by the presiding officers in a consultative discourse designed to curb delay and defeat adversarial tactics of the parties. This work station as an instrument of case management has the ability to deal with many aspects of the case on the some occasion.

International Practices:

In USA Federal Rules of Civil Procedure were adopted in 1938, and its Rule 16 titled "Pre Trial Procedure-Formulating Issues" remained as the biggest instrument for early and expeditious disposal of cases. It gave powers to the court to call for a conference for the effective management of a civil case. But, till 1983 the word "management" was not functionally used in the procedure. In 1983, this rule was amended and the title of the rule was replaced as "Pre-Trial Conference; Scheduling; Management." This rule is further complimented by Rule 56, which authorizes a civil court to pass summary judgment either

on the application of a party or on its own motion, if the application shows that there is no genuine dispute as to any material facts, and he is entitled to judgment as a matter of law.

In UK, Lord Woolf was appointed as head of a committee to investigate into the operation of the Rules of Civil Procedure in England and Wales. His solution to the problems was a detailed rewriting of the rules of civil procedure, which was subsequently implemented as the Civil Procedure Rules in 1999. These were, Firstly, to develop certain pre action protocols to regulate case actively prior to filing of a claim, with a view that the parties should have clear views about each other's positions at any early stages, so that agreements could be encouraged through ADRs and litigation avoided; Secondly, to develop a series of tight timetables, cost containment measures, and new rules to minimize delay through track allocation of cases, directions questionnaires and case management and trial review conferences.

These reforms was also followed by Hong Kong. The structural procedural paradigm in Hong Kong is "ADR-Discovery-Case Management-Summary-Judgment-Centric and Non Trial Based".

In India legal services authority Act 1987 paved the way for the establishment of "*Lok Adalat*". It complimented the civil courts in removing the backlog. Similarly the supreme court of India in case of Saleem Bar Association directed all High Courts to frame case flow management and ADR rules. Lastly the law commission of India worked on Costs for curbing frivolous litigation. As a result of these developments the structural procedural paradigm in India is "Pleadings-Differential-Management-ADR-Centric and Trial-Based."

Unlike USA and UK, the Civil Procedure Code of India does not contain any procedural instruments for Case Management. However, like Pakistan, with exception for ADRs and the Differential Management of cases in different time bound tracks, the structural procedural paradigm of civil litigation is substantially based on setting pleadings and final adjudication of cases through trial. The stages of advanced Discovery regime and Summary Judgment are also missing in the practice of Indian civil courts.

Aims and objectives:

- To provide a platform on initiating academic discourse on the matter in question
- To encourage discussion by the legal fraternity on the proposed reforms
- Forming recommendation for consideration
- Promulgation of rule-based regime for caseflow management
- Development of a single comprehensive document that contains all revised and new caseflow management frameworks and rules in a consolidated form.

Conclusion:

We as a nation need to understand that without a functional and effective rule of law we might not be able to preserve and protect what we already have. The imminent threat of quick decision making by non-state actors is looming large. Transforming behaviour, mindsets and renovating conduct is likely to be resisted. But we have no alternative but to be more proactive in the dispensation of justice for benefit of people of this country. A dysfunctional justice system is the root cause of lots of wrongs in this state and society. Hence to survive, we need a system of adjudicating disputes that is fair, expeditious and efficient.

Khawaja Wajihuddin

Dean Faculty

PROCEEDINGS

PROPOSED AMENDMENTS IN CIVIL PROCEDURE CODE, 1908

One day seminar was held in the Khyber Pakhtunkhwa Judicial Academy, Peshawar. The proceedings started at **09:00 am** with the recitation from the Holy Quran.

The **Director General KP Judicial Academy** in his welcome remarks appraised the House that under its statutory mandate the KP Judicial Academy is holding this seminar, and that today the main problem faced by the litigants is delay in disposal of cases. Other Common Law countries have also inserted amendments in their Civil Procedures. These amendments are being introduced so as to put the courts in the control of cases. The DG requested the participants that they should put forward their suggestions and criticism on the Draft proposed amendments from Islamabad High Court that will help in evolving a mechanism to bring fundamental changes in the way the courts operate.

The **Dean Faculty KP Judicial Academy** briefed the house about the conceptual background of the seminar and its methodology. He apprised the House that if we successfully adopt these changes in the Civil Procedure Code, then there is possibility of fifty (50) percent delay reduction in civil litigation within a short span of time. He shared experience of his service and opined that it was a history making event.

Activity 1.1 started at **09:20 am** with a forty (40) minutes presentation by Mr. Kamran Basharat which was followed by feedback from other Judicial Academies of the country and Law & Justice Commission of Pakistan, Islamabad, Law Department Peshawar as well as by District & Sessions Judge Naushki, Baluchistan and KP Judicial Academy.

Mr. Kamran Basharat Mufti District & Sessions Judge Islamabad (West) gave the historical background and the evolution of Civil Procedure in the United Kingdom during different eras. He said that, according to a study, the shelf life of a Civil Suit in Pakistan is about 37 months which includes an average of 58 hearings. This he said is due to the cumbersome procedure. There is no investigative procedure. Plaintiff is filed and issues are framed without going through the plaint. After that, applications starts pouring in one after another under different provisions of CPC which delays the whole process.

Mr. Bashrat said that this was the main reason that Islamabad High Court took initiative and assigned the Rule Committee a task to bring relevant amendments in the Civil Procedure Code after due consultation with all stakeholders from across the country in order to reform the system and curtail the time period in civil litigation.

The representative from **Law & Justice Commission of Pakistan Mr. Abdul-Nabi, Research Officer**, apprised the gathering that Law Commission is mainly a reform body established in 1979. Since then 134 reports have come and we have given our feedback. One-third of these reports have been implemented by the government. Mr. Abdul-Nabi said that Law Commission in Pakistan is an attached body headed by Chief Justice of Pakistan while in other countries like India and Bangladesh, it is independent. As in Pakistan it is attached department headed by Chief Justice of Pakistan so due to the busy schedule of the Hon'ble Chief Justice the proper attention to the research work cannot be given. He said that Judicial Academies should send their reports, research work and proposals in concrete form to Law & Justice Commission of Pakistan. Once this is shared with us, we can forward it for implementation with the name of the institution sharing the proposal.

Mr. Mukhtiar Ahmad, Additional Secretary Law Department KPK said that our civil justice system is on the pattern of United Kingdom. We should develop our own system which can work according to our culture and environment. We have no system of in-built damages or compensation which can compensate the person affected by frivolous litigation. He said that capacity building of judges and lawyers is very essential. He also suggested that a Research Center should be established for contemporary research on issues relating to deficiencies in our judicial system.

The representative from **Sindh Judicial Academy Dr. Chaudary Waseem** thanked the KP Judicial Academy for inviting him to the seminar. He said that Sindh Judicial Academy has already discussed the proposed amendments from Islamabad High Court and submitted their feedback. He said that such activities should also continue in future. He spoke in favor of the amendments.

Mr. Iqbal Chaddar, representative from Punjab Judicial Academy, also thanked the KP Judicial Academy for inviting him to the seminar. He said that KP Judicial Academy, by

arranging this seminar, has acted as a flag-ship. Punjab Judicial Academy has also discussed in detail the proposed amendments shared by Islamabad High Court. As far as the proposed amendments are concerned the Chief Justice Lahore High Court is very supportive and encouraging. He also suggested that the party that resorts to delaying tactics should also be penalized.

District & Sessions Judge Naushki Balochistan Mr.Nauroz Khan Hoth also thanked the KP Judicial Academy for inviting him to the seminar. He extended his whole hearted support to the draft amendment.

At the end **Mr. Zia-ur-Rehman (ADJ) Director Instructions-III** appraised the House with the feedback of KP Judicial Academy on the proposed amendments. He stressed that KPJA, with a few amendment, is in agreement with the proposal in question.

Activity 1.2 (11:30 AM-01:00PM)

The activity 1.2 included **Clause wise study** of the relevant orders and proformas in which the amendments were proposed. Each clause was read and discussed threadbare. The decisions of the house and some important comments from individual participants are recorded in the table below.

Order/Proforma	Deliberations/Comments	Decision
Order IX-A	<p>Mr.Amjad Zia Siddique (ADJ): The term “Scheduling Conferences” not defined.</p> <p>DG KPJA: The term shall be explained through an explanatory note.</p> <p>Mr.Ahmad Sultan Tareen (DSJ): Adding an explanatory note</p>	<ul style="list-style-type: none"> • 5 participants agreed to add the explanation clause and the rest not in favour of explanation clause. Thus the majority of the House not agreed to add the explanatory note. • Regarding suggestions of KPJA, the House agreed with majority that in Rule

<p>would put limitation on the Case management.</p> <p>Mr.Shakeel Azam Awan(ADJ): No need to define the term. Sub-rule 1 is self-explanatory.</p> <p>Sub-rule 4 is also self explanatory and explains the concept of scheduling of conferences.</p> <p>Shakeel Azam (ADJ):</p> <p>The term “at any time” in the proposed amendment shall be explained.</p> <p>Kamran Basharat(DSJ): This should be left open to help the presiding officer of the court to exert his managerial skills.</p> <p>Ahmad Sultan Tareen (DSJ):</p> <p>The term “at any time” should be re-phrased as “after the institution of the suit” or “during Trial”.</p> <p>Kamran Basharat (DSJ):</p> <p>“At any time” means that whenever a judge needs “Scheduling of Conference” he</p>	<p>(1) the word “may” be replaced with the word “shall” and reasons for not conducting the conference be recorded.</p> <ul style="list-style-type: none"> • The House agreed that in Rule (1) the term “Attorney” of the parties be replaced with “Counsel and/or parties”. • The House also agreed that in Rule (4) Motion Management and Scheduling Orders in sub-rule (i) after “required for completion of pleadings”, the term “<i>other equity based applications</i>” shall be added. • The House agreed that in Rule (7) Settlement Conference & Scheduling Orders the term “Alternate Dispute Resolution” is confusing as there is no provision in CPC so it shall be replaced with “Settlement of
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	<p>should call for it. This will empower the judge.</p> <p>Mr.Adil Khan (DSJ):</p> <p>After the term “at any time” the word “may” be replaced with “shall”.</p> <p>DG KPJA:</p> <p>We have already suggested “shall” instead of “may” in the feedback from KP Judicial Academy. The result of “shall” will be that the judge will have to write reasons for not doing Scheduling of Conference</p>	<p>dispute between parties”.</p> <ul style="list-style-type: none"> • The House agreed to delete Rule (9) Modifying a Schedule and Rule (10) Piloting Clause.
Order XV-A	<p>Mr. Zia ur Rehman:</p> <p>Suggested that dilatory clause be omitted.</p> <p>Mr. Shakeel Azam:</p> <p>All those questions which can be determined by the court without evidence will be disposed off. But what about those orders which you have passed in summary judgment in which there is no evidence? (Question for Mr. Kamran Basharat).</p>	The house agreed that there is no need for piloting clauses so it should be deleted.

	<p>Mr. Kamran Basharat:</p> <p>There is a lot of room for correction. We have to take only exhibits as evidence and give judgment. The conceptual framework is that judge should control the proceedings. Discovery shall be made. Most of the cases will be resolved through settlement/ADR and few cases will go to trial.</p> <p>Dr. Waseem (SJA):</p> <p>We in Sindh Judicial Academy are in consensus with these proposed amendments as there is nothing new in it.</p>	
Proforma-A (Notice for Motion management)	No change	No change
Proforma-B (Notice for Discovery management)	No change	No change
Proforma-C (Notice for Trial management)	No change	No change

Proforma-D(Notice for Settlement Conference	No change	No change
Proforma-E(List of proposed Exhibits) U/O XIII CPC	No change	No change
Proforma-F-1(List of witnesses)U/O XVI CPC	No change	No change
Proforma-F-2(List of witnesses)U/O XVI CPC	No change	No change
Proforma-G (Certificate of Readiness of Evidence) U/O XVI Rule 1 CPC	No change	No change

Activity 1.3 (02:00-3:30 PM)

Open House Discussion

Open house discussion took place in detail. Various points of views were deliberated upon. Following are some key highlights of the session.

Mr.Shakeel Azam (ADJ):

“Shall” is directory not mandatory. If consequences are added then it will become mandatory.

Mr.Adil Khan (DSJ):

We fear that it may be one of the neglected provisions if “shall” is not added.

Ms. Zarqish sani (DSJ)

After the term “at any time” *introduced for the first time* shall be inserted with parenthesis.

Mr. Adil Khan (DSJ):

These “Scheduling Conference” should be before trial. A judge should be empowered to call a person and held these conferences.

Mr.Zia-ur-Rehman (ADJ):

“At any time” actually means “pre-trial proceedings”

Anwar Ali Khan (DSJ)

In Rule (8) Imposing Fee and cost shall go to government treasury.

Justice Rooh-ul-Amin:

Cost is for the sufferer who suffers at the hands of other party. So it should be substituted with “penalty”.

Justice Qalandar Ali Khan:

Object of imposing cost is to discourage “adjournment”. This is not compensatory cost. This is to penalize. In Washington DC courts ADR and re-conciliation is done. If it is not possible, the party that does not cooperate in re-conciliation or delays the proceedings is penalized. The Judge in USA has a proactive role. Pleadings, issues etc. should be resolved at the pre-

trial stage which is managerial role and not Judicial. A Senior Civil Judge in a District shall be given this managerial role.

At the moment, the Hon'ble Chief Justice of Peshawar High Court, Mr. Justice Yahya Afridi, joined the seminar as an observer.

Muhammad Masood Khan (DG KP Judicial Academy):

This will result in lack of ownership.

Justice Qalandar Ali Khan:

Will summary Judgment be appealable?

Muhammad Masood Khan (DG KP Judicial Academy):

Yes it will be appealable

Dr. Waseem (SJA) we should change the term “summary judgment” with “Pre-trial judgment or “Judgment without trial”

Justice Qalandar Ali Khan:

The members of the Bar shall also be taken on board.

Mr. Kamran Basharat:

There is a lot of room for improvement. We can take only exhibits as evidence and give judgment. If, for example, two issues are resolved through summary judgment and two are remaining for which there is no evidence then they should be left for trial. The conceptual framework is that judge should control the proceedings. Discovery shall be made.

Dr. Waseem (SJA):

We fear to do adventures in our procedure. We in Sindh Judicial Academy are in consensus with these proposed amendments.

Mr. Iqbal Chaddar (Punjab Judicial Academy):

Will every judge be a pilot judge for these amendments to be implemented in the first stage? He spoke in favor of the draft amendment.

Muhammad Masood Khan(DG KP Judicial Academy):

There is no question of piloting. These procedures have already been given to our judges in CPC 1908.

Mr. Shakeel Azam (ADJ):

Delay is due to frivolous claim and frivolous litigation. A civil judge should be empowered to impose huge compensation under section 35 and 35-A CPC.

Muhammad Jamshid Khan,(DSJ Loralai Balochistan):

Something is better than nothing. Delay is the main problem. We shall apply the summary judgments.

Mr. Nauroz Khan Hoth (DSJ Noshki Balochistan):

People are fed up with this system. They now resort to extra-judicial processes to solve their problems. Lawyers charge heavy fees due to which most of the people cannot even come to the courts. We need to bring these changes.

Wisal Khan, Advocate opined that these amendments are necessary to address the issue of delay in disposal and give power to the judge as envisaged therein.

Activity 1.4 (3:45-5:15 PM)

Formulation of Recommendations

In this Activity two group were asked to check the draft rules so amend which was done. The house approved the draft rules with amendments so inserted. At the end the

proceedings were wrapped up by the DG KPJA and memento were distributed amongst the guests.

Feedback of the KPJA

There is no doubt that our justice system is not delivering. The structural & procedural paradigm of the civil litigation is only "Pleading-Centric and trial focused" and thus there is dire need for procedural innovation. Based upon best international practices of USA and UK, the proposed amendments, a commendable initiative, will definitely pave the way to delay reduction and administration of qualitative justice, once the aspirations to employ the techniques of pre-trial case management and scheduling conference(s) are adopted. The KPJA, after going through the draft fully agrees with the concept and would suggest as under.

1. Order IX-A CPC (Proposed) is denoted as "Case management and scheduling conference(s)", whereas the existing / vogue Order IX-A CPC is titled as "Intermediate Dates". The latter is comprised of two rules, which need to be repealed being very general in nature, nor serving the purpose of effective case management and conference scheduling. The draft, however, is silent in this regard. Therefore there should be a repealing clause.
2. Rule 1 of the proposed Order IX-A CPC is found permissive in nature, as it provides that "The court at any time during the proceedings of a civil suit **may** call for ". It should be authoritative amendment by stipulating that "the court **shall ordinarily**", if we really want to change the procedural paradigm of civil litigation. Further, "**the court shall give reasons for not calling for case management and scheduling conference**", should be inserted.
3. There is no time frame provided for the "motion management and scheduling order(s)". Therefore likelihood of unwarranted delay cannot be ruled out, vitiating the very object and spirit of the activity. Hence, it is proposed that "**clause D**" to sub rule III of Rule 4 be added, directing that "**all the proceedings under this Rule 4 shall be completed within two months and the court in case of failure to do so**

shall record findings of such default by specifying the role of the party responsible for the delay and shall also impose appropriate costs," in accordance with the proposed Rule 8.

4. For Rule 7, enabling the court to have recourse the ADR, again no time frame is given. Nevertheless, it has to be time bound, which should not be ordinarily more than a month.
5. There is no need of "piloting clause" in legislative drafting, for analysis of the follow-up study may appear to be a subjective task. Instead, the proposed amendments should be applicable across the entire jurisdiction of a High Court and there will be no impediment for the Rules Committee in reviewing or revisiting the amendments in the light of better and exhaustive subsequent impact study on the basis of experience of the entire jurisdiction.
6. As far as proposed Order XV-A CPC is concerned, the existing provision, Order XV Rule 3, already provides the mode and manner of summary adjudication. Therefore, instead of introducing a separate Order, the existing Order XV can be amended and the proposed Rules 1 to 5 of the new proposed Order can be included therein, to make it more elaborative and effective.
7. Further, it is suggested that where the court is to issue a schedule of trial, prior to the same counsel of parties shall file all miscellaneous applications which shall be decided prior to the issuance of the schedule. **"Any order made under this section shall not be appealable or revisable except in an appeal or revision as the case may be in the main case".**
8. Similarly, insertion of clause (e) is suggested in Rule 5 of the proposed Order XV-A CPC, as under
(e) **where costs are not to follow the event, reasons shall be recorded.**

LIST OF PARTICIPANTS INVITED

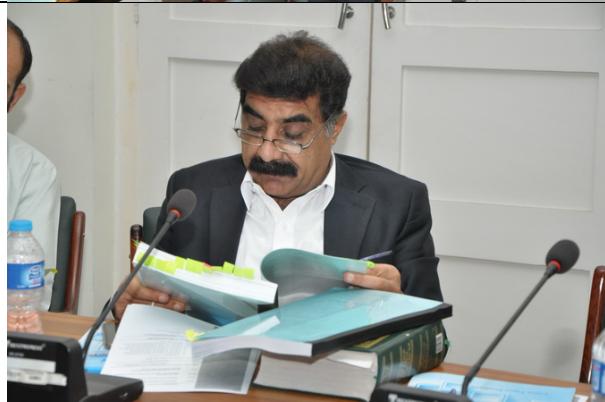
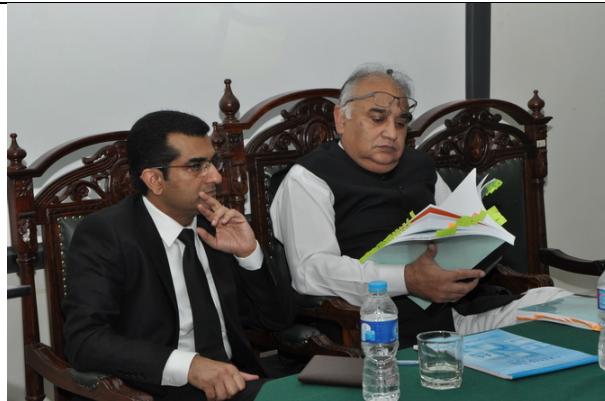
Proposed Names of Participants for the seminar on 18-4-2017

S#	Name	Designation
1	Mr. Justice Rooh ul Amin Khan	Justice , Peshawar High Court, Peshawar
2	Mr. Justice Qalander Ali Khan	Justice , Peshawar High Court, Peshawar
3	Mr. Justice Muhammad Ibrahim Khan	Justice , Peshawar High Court, Peshawar
4	Mr. Anwar Ali Khan	District & Sessions Judge, Peshawar
5	Dr. Khurshid Iqbal	Legal Draftsman, Peshawar High Court, Peshawar
6	Mr. Abdul Sattar Khan	Advocate
7	Mr. Abdul Samad Khan	Advocate
8	Mr. Justice Latif	Justice (R) , Peshawar High Court, Peshawar
9	Mr. Mohammad Adil Khan	District & Sessions Judge, Swabi
10	Mrs. Zarqaish Sani	District & Sessions Judge, Lakki Marwat
11	Mr. Ahmad Sultan Tareen	District & Sessions Judge, Kohat
12	Mr. Muhammad Zeb Khan	District & Sessions Judge, Shangla
13	Mr. Muhammad Asif-II	District & Sessions Judge, Battagram
14	Mr. Muhammad Shoaib	Additional District & Sessions Judge, Matta (Swat)
15	Mr. Ghulam Abbas	Additional District & Sessions Judge, Mansehra
16	Mr. Ahmad Iftikhar	Additional District & Sessions Judge, Nowshera
17	Ms. Phool Bibi	Additional District & Sessions Judge, Kohat
18	Mr. Dost Muhammad Khan	Additional District & Sessions Judge, Nowshera
19	Mr. Amjad Zia Siddiqui	Additional District & Sessions Judge, Hangu

20	Mr. Shakeel Azam Awan	Additional District & Sessions Judge, Swabi
21	Mr. Kaleem Arshad	Additional District & Sessions Judge, Peshawar
22	Ms. Nighat Bibi	Civil Judge, Peshawar
23	Ms. Nusrat Naz	Senior Civil Judge, Kohat
24	Ms. HussanBano	Senior Civil Judge, karak
25	Mr. Wajid Ali	Civil Judge, Charsadda (Shabqadar)
26	Mr. Kamran Basharat Mufti	District & Sessions Judge, West Islamabad
27	Dr. Ch. Wasim Iqbal	D&SJ/ Faculty Member, Sindh Judicial Academy
28	Mr. Iqbal Chaddar	D&SJ, Punjab Judicial Academy
29	Mr. Muhammad jamshid khan	D&SJ (Loralai), Balochistan High Court
30	Mr. Nauroz Khan Hoth	D&SJ (Noshki), Balochistan High Court
31	Ms. Farah Attaullah	Additional District & Sessions Judge, Mansehra
32	Mr. Abdul Mateen Khan	District & Sessions Judge, (R)
33	Mr. Shehryar Afridi	MNA, Kohat

SEMINAR IN PICTORIALS







MEDIA COVERAGE



کیس اور سمری جھمنٹ روپی میں مجوزہ ترا میم کیلئے سفارشات تیار

ضابطہ دیوانی میں ترمیم بارے سینئر کا مقصود قانون ساز اداروں کی معافوت کرتا ہے، جیف جسٹس تھیجی آفریدی پشاور (نیوز روپورٹ) خبر پختوونوا جو ڈیٹل اکیڈمی (دیوانی سی پی ای) میں مجوزہ تائیم کے حوالے سے ایک شروع میں کسی نہیں اور عزیز جنگ جنگ روپر (ضابطہ

لپھی سفارشات تیار روز و قوی سینئار معتقد کیا جس میں جو بارہ تریم میں تعلق
سفارشات مرتب کری کی تی بی جو شادر ہائی کورٹ کو پہنچوانی
جائیں کی، ایک روزہ سینئار میں چیف جسٹس پشاور ہائی
کورٹ جسٹس سعیٰ آفریدی، ضلعی عدالت کے چون، پس پردہ دکان،
انماری ہرzel اور یڈیڈ کیتھ جرzel خیرپور کے مختلف نحو افس کے
تمامندوں، پنجاب، سندھ، بلوچستان اور فیصل جوڑ پیش
ایکی میور کے تمامندوں، پشاور ہائی کورٹ رولز میٹنی کے
ارکان جسٹس روح العلی میں خان، جسٹس قلندر علی خان اور
جسٹس محمد ابراهیم، لاءِ کیش اور اسلام آباد ہائی کورٹ رولز
سینئری کے تمامندوں، ایڈیٹشل سکریٹری کے مختلف نحو خواجو،
ڈائریکٹر ہرzel جوڑ پیش اکٹیوی محکمہ مسحوق خان، ڈین فیکٹی
خواجو جمیلہ العین، سینئر رائے ایڈیٹریٹر پرنسپل شریش نجم حاصف خان
سینئر اسٹریکٹر سریچ ریڈنگ ہائی کیشن سکیل شہزاد نور ثانی اور
ڈائریکٹر شرکش نہاد کے ماہرین قانون لے شرکت
مشکل دیکٹر سکپ ہولڈرز کے ماہرین قانون لے شرکت
کی، ڈائریکٹر ہرzel جوڑ پیش اکٹیوی پشاور جنگل مسحوق خان نے
تمام شکار کو سینئار میں شرکت پر ان کا مکملی ادا کرتے
ہوئے کہا کہ چیئرمین جنگل مسحوق خان جوڑ پیش اکٹیوی، چیف
جسٹس پشاور ہائی کورٹ جسٹس سعیٰ آفریدی کی خصوصی
ہدایات عی شریش میں کسی میختمن اور سری جوڑ پیش رولز رولز
تینی ضابطہ دیوالی کی سب جوڑہ تمم میں تعلق ایک روزہ قوی
سینئار کا اجتماع کیا گیا ہے جس کا مقدمہ لی پسی میں جوڑہ
ترائمیت کا جائزہ لینا اور اس کی ضرورت، اہمیت اور ارشاد کو
ذیر بحث لا رکن اقوال ساز اداروں کی معاوحت کرتا ہے۔

اللہ، ہی کیلئے ہیں مشرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR



مسلسل اشاعت کے 50 سال

پشاور اسلام آباد سے بیکو قیمت شائع ہو زد اکیش انشاعت قومی اخبار

ABC
CERTIFIED

شمارہ
241

جمرات 22 رب المجب 1438ھ 20 اپریل 2017ء بیسا کھ قیمت 13 روپے

جلد 50

جوڈیشل اکیڈمی پشاور میں صابطہ دیوانی سی پی سی پر سیمینار کا انعقاد

سیمینار کا مقصد صابطہ فوجداری میں پائے جانیوالے کمزور پہلوؤں کا جائزہ لیکر تراہیم تجویز کرنا تھا

پشاور (خبرنگار) خبر پختونخوا جوڈیشل اکیڈمی پشاور میں طور پر نہایا جائے تاکہ لوگوں کو سول مقدمہ بازی میں صابطہ دیوانی سی پی سی میں مجوزہ تراہیم کے حوالے فوری اور ستان انصاف میں سکے اور سالہا سال سے سول سے ایک روزہ سیمینار منعقد کیا گیا، جس کا مقصد مقدمہ بازی کو جلد نہیں تھا۔ ایک روزہ سیمینار میں صابطہ فوجداری میں پائی جانے والے کمزور پہلوؤں کا چیف جنس پشاور ہائی کورٹ جسٹیس علی آفریدی، جائزہ لیکر اس کو مزید بہل بنانے کیلئے تراہیم تجویز کی شامی عدلی کے نجح صاحبان، سینئر وکلاء، ائمہ جعلی جاسکیں تاکہ ایک طرف عدالتون پر سول مقدمات کا اور ایک دوست جعلی خیر پختونخوا آفس کے نمائندوں، بوجہ کم کیا جاسکے اور دوسری طرف سو سول مقدمات کو فوری۔ (باقیہ 4 صفحہ 9)

4

سیمینار کا انعقاد

چنگاب، سندھ، بلوچستان اور فیڈرل جوڈیشل اکیڈمیوں کے نمائندوں، پشاور ہائی کورٹ روزہ کیمپ کے ارکان جسٹس روح الامتنی خان، جسٹس قلندر علی خان اور جسٹس محمد ابراهیم، لاءِ کیش اور اسلام آباد ہائی کورٹ روزہ کیمپ کے نمائندوں، ایڈیشنل سیکریٹری لام خیر پختونخوا، ڈائریکٹر جعلی جوڈیشل اکیڈمی محمد مسعود خان، ڈین فیکٹر خوب و جمال الدین سمیت ماہرین قانون نے مشرکت کی۔



ضابطہ دیوانی میں تراجم مسموٰہ حکومت کو بخواز کیلئے تیار

سیپر پشو خواجہ میں کیس پیغمبیر اکیڈمی میں اور سری جنگوں روڑ کے حوالے سے ایک روزہ سینیٹار کا انعقاد پشاور میں (جنرل پورپور) خیر بخشن خواجہ یوسف اکیڈمی پشاور میں متعلق خفارشات مربوط کر لی گئی میں جو اور ایڈوکیٹ ہزل خیر بخشن خواجہ آفس کے مکاندوں پشاور میں کیس پیغمبیر اور سری جنگوں روڑ (شاطیب پشاور ہائی کورٹ کو گواہی جائیں کی ایک روزہ سینیٹار تخلیق، سندھ، بلوچستان اور قبائل جو یونیشن دیوبیو ہمیتی کی پیش کیا) میں موجہ رہ ایڈمیس کے حوالے میں چیف جسٹس پشاور ہائی کورٹ جسٹس علی گنجی اکیڈمی میں ایک روزہ وہ سینیٹار متعین کیا گیا جس میں موجہ رہ ایک روزہ سینیٹار کے حق صاحبان، سینئر و کلاماء اداری ہزل کے ایک روزہ سینیٹار متعین کیا گیا جس میں موجہ رہ ایک روزہ سینیٹار متعین کیا گیا جس میں موجہ رہ ایک روزہ سینیٹار کے حق صاحبان، سینئر و کلاماء اداری ہزل کے (باقی مبلغ ۱۰ لیکٹر نمبر 45)

باقیه نمبر 45 ترا میم
ضایا طرد یوانی

روح الائمه خان، جلس نظردار خان اور سلطان محمد
امام حرام، امام نعمتیں اور اسلام آباد ہالی کوئت روڈ پر ملی
کے نام درود، یونیورسٹی سکریٹری الام خیر پر خوش خواہ،
ڈاکٹر ایکٹر ہر جول بڑھیں اکیڈمی پر مسعود خان، دین
نیکٹی خواجہ دہلی دین، منسٹر ایکٹر پر مشتمل پر مشتمل ہیں جو
آمنہ خان مان سنبھل کر ایکٹر پر مسعود خان بھی کیش
کمیل شہزاد نور خانی اور ایکٹر پر مسعود خان کیش
الرجاں سے سوت نکالم انساف سے نکل دیکھ رہیں
ہولڈر کے ماہرین قانون سے نظرت کی سیمیار میں
شاپدروں ایں میں پورے تراہم پر خوبی و خوشی کیا اور اسی
لیے میں مجذوب و تماں کو طلاق شات کیں کل میں رحیب
لیکیں ایکٹر ہر جول بڑھیں اکیڈمی پر مسعود
خان سے کیا کہ جیتنے خیر پر مسعود خان اکیدی،
چیف جنگ پشاور ہالی کوئت مسٹر جنگ ایکٹر کی
تصویری چایا بات کی روشنی میں کسی کسی اور اسری
جو بڑی بڑی طبقہ ایڈیشن ایں میں مجذوب و تماں
نکلناں ایکٹر ہر جول کی سیمیار کا کامیاب کیا ہے، میں
کا مقصد لیکی ای میں مجذوب و تماں کی اسی کامیابی کی اور اس
کی ضرورت، ایکٹر اور اس اڑت کوئت بھٹکا کر جاؤں
ساز اداویوں کی حادثت کر کے ایکٹر اسی کو جاؤں
اس سے کیلیں مجذوب میں جو بڑیں اکیڈمی کی ہی ایڈیشن
پر بڑھیں اکیڈمی پلٹ پر تحریر ایسا کا سکن اور اس ایڈیشن
وچاری کیں پورے تراہم کا تراہم کر جاؤں اسی کو جاؤں
کا سطراقشات کی بھلیں مسودہ تجاوز کیا جو بڑیں

2017.8.120



جوڈیشل اکیڈمی میں ضابطہ دیوانی سے متعلق سیمنار

تعزیرات پاکستان میں مجوزہ تراجمیم کا جائزہ اور سفارشات پیش کی گئیں، مسعود خان

پشاور (کورٹس رپورٹ) خبر پختو نخواجوڈیشل اکیڈمی پشاور میں کیس میجنٹ اور سری جنٹ روڑ (ضابطہ دیوانی) میں مجوزہ تراجمیم کے حوالے سے ایک روزہ قومی سیمنار کا انعقاد کیا گیا جس میں مجوزہ تراجمیم سے متعلق سفارشات مرتب کر لی گئیں جو پشاور ہائیکورٹ کو بھجوائی جائیگی، سیمنار میں چیف جسٹس پشاور ہائیکورٹ جسٹس سعی آفریدی، صلحی عدیہ کے بجز، سینڑو کلاع، الارنی جزل اور ایڈ و کیٹ جزل خبر پختو نخواس افس کے نمائندوں، پنجاب، سندھ، بلوچستان اور فیڈرل جوڈیشل اکیڈمیوں کے نمائندوں دیگر سنیک ہولڈرز کے ممبرین قانون نے شرکت کی، سیمنار میں ضابطہ دیوانی میں مجوزہ تراجمیم پر غور و حوض کیا گیا اور سی پی سی میں مجوزہ تراجمیم کو سفارشات کی شکل میں مرتب کیا گیا، ڈائریکٹر جزل جوڈیشل اکیڈمی پشاور محمد مسعود خان کا کہنا تھا قبل از اس چیز میں جوڈیشل اکیڈمی کی ہدایات پر جوڈیشل اکیڈمی پشاور تعزیرات پاکستان اور ضابطہ فوجداری میں مجوزہ تراجمیم کا جائزہ لیکر مجوزہ تراجمیم کا مسودہ تیار کیا گیا۔

GROUP PHOTO



KHYBER PAKHTUNKHWA JUDICIAL ACADEMY

National One Day Seminar on Case Management and Summary Judgement Rules Amendments in CPC 18-04-2017

Sitting L to R

Mr. Abdul Nabi, Mr. Iqbal Chaddhar, Mr. Muhammad Jamshid Khan, Dr. Ch. Wasim Iqbal, Mr. Kamran Basharat Mufti, Mr. Muhammad Masood Khan (DG), Mr. Nauroz Khan Roth, Mr. Justice Rooh-ul-Amin Khan(PHC), Mr. Justice Yabha Afridi (HCJ-PHC), Mr. Justice Qalandar Ali Khan(PHC), Mr. Justice Muhammad Ibrahim Khan(PHC), Ms. Zarqaish Sani, Ms. Phool Bibi, Ms. Farah Attaulah, Ms. Nusrat Naz, Ms. Nighat Bibi, Ms. Hussan Bano.

Standing L to R

Mr. Zia ur Rahman(DIR-II), Mr. Sohail Sheraz Noor Sani(SDR&P), Mr. Muhammad Asif Khan (SDA), Mr. Khwaja Wajih-ud-Din (Dean Faculty), Mr. Anwar Ali Khan, Dr. Khursheed Iqbal, Mr. Muhammad Asif-II, Mr. Ahmad Sultan Tareen, Mr. Muhammad Wais Khan, Mr. Muhammad Shoaib, Mr. Shakil Azam Awan, Mr. Anjnad Zia - Siddiqui, Mr. Ghulam Abbas, Mr. Ahmad Ifrikhat, Mr. Dost Muhammad Khan, Mr. Muhammad Zeb Khan, Mr. Kafeem Arshad, Mr. Wajid Ali,

*National One Day
Seminar on Case
Management and
Summary Judgment
Rules*
(Amendments in CPC)

Date: 18th April, 2017
KP Judicial Academy,
Peshawar

Organized by:

**Khyber Pakhtunkhwa Judicial
Academy, Peshawar**

Schedule of Activity

08:30	Arrival of Participants and Registration
09:00	Recitation from the Holy Quran
09:05	Welcome Address
	Masood Khan, Director General KP Judicial Academy
9:10	Concept & Methodology of the Workshop
	Khwaja Wajihudin, Dean Faculty
9:20-11:10	Activity 1.1:

An Introduction to Case Management and Summary Judgment Rules –

- Mr. Kamran Basharat - 60 mins
- Mr. Abdul Nabi, Research Officer-II, Law & Justice Commission - 60 mins
- Mukhtiar Ahamed, Addl. Sectt. Law Dept. KP - 60 mins
- Dr. Chaudhry Wasim Iqbal, Sindh Judicial Academy - 60 mins
- Mr. Iqbal Chaddar, Punjab Judicial Academy - 60 mins
- Mr. Nouroz Khan Hoth, DSJ, Noshki - 60 mins
- Mr. Zia ur Rehman, Director Instructions, KPJA - 60 mins

Tea Break 11:10-11:30

11:30-1:00 Activity 1.2: Clause wise Study

- i. Amendment in Order IX A
- ii. Order XV-A
- iii. Proforma –A (Notice for Motion management)
- iv. Proforma –B (Notice for Discovery Management)
- v. Proforma –C (Notice for Trial Management)
- vi. Proforma –D (Notice for Settlement Conference)
- vii. Proforma –E (List of Proposed Exhibits) U/O XIII CPC
- viii. Proforma –F-1 (List of Witnesses) U/O XVI CPC
- ix. Proforma –F-2 (List of Witnesses) U/O XVI CPC
- x. Proforma- G (Certificate of Readiness of Evidence) U/O XVI Rule 1 CPC

Prayer/Lunch 1:00-2:00

2:00- 3:30 Activity 1.3: Open House Discussion

Tea Break 3:30-3:45

3:45-5:15	Formulation of Recommendations
5:15	Wrap up
	Khwaja Wajihuddin- Dean Faculty
05:30	Concluding ceremony

STATUTORY NOTIFICATION BY ISLAMABAD HIGH COURT AND PROPOSED AMENDMENT

REGISTERED No. M - 302
L.-7646



EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, NOVEMBER 8, 2016

PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

ISLAMABAD HIGH COURT, ISLAMABAD

NOTIFICATION

Islamabad the 7th November, 2016

S. R. O. 1038 (I)/2016.—In exercise of the powers conferred under Article 202 of the Constitution of Islamic Republic of Pakistan, 1973, read with Section 122 of CPC, the Hon’ble Chief Justice and the Judges of Islamabad High Court, on the recommendations of the Hon’ble Rules Committee of Islamabad High Court, have been pleased to make the following practice and procedure rules in the CPC for information of all persons likely to be affected thereby and notice is hereby given that the draft rules will be taken into consideration after a period of 60 days from the date on which copies of the Gazette of Pakistan in which this notification is published, are made available to the public;

Objections or suggestions, if any, may be addressed to the Additional Registrar (Legislation), Islamabad High Court, G-10/1, Islamabad.

Any objection or suggestion, which may be received from any person in respect of the said draft rules before the expiry of the period specified above, will be considered by the Authority.

(3229)

Price : Rs. 20.50

[3991 (2016)/Ex. Gaz.]

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CONCEPTUAL BASIS OF AMENDMENT IN ORDER IX-A CPC

(Concept Note: Without disturbing the main scheme of Civil Procedure Code, 1908, or bringing any procedural novation, this amendment aspires to employ the techniques of Case Management derived from Rule 16 Federal Rules of Civil Procedure, USA, and Civil Procedure Rules, England and Wales. Woolf Reforms in UK and Civil Justice Reform Act 1991 of USA influenced changes in Civil Procedures of UK and USA by developing certain Case Management techniques, resulting in shifting the control of civil litigation from the litigants to the courts, extending a proactive managerial role of the Presiding Officers. In this context, this amendment aspires to create a procedural "work station" wherein all the proceedings are regulated by the Presiding Officers in a

consultative discourse, designed to curb delay and defeat adversarial tactics of the parties. This work station, as an instrument of Case Management, has the ability to deal with many aspects of the case on the same occasion. To keep the conceptual foundation of this instrument intact, all the provisions and concepts taken from Civil Procedure of U.K and U.S.A are kept in their original legislative language).

Order IX-A CPC. Case Management and Scheduling Conference(s)^I

- (1) The court at any time during the proceedings of a civil suit may call for a Case Management & Scheduling Conference, and in so doing, the court shall order the parties and the attorneys of the parties and the unrepresented party(ies) to appear in the court for one or more Case Management and Scheduling Conference(s) for the following purposes:—
- (i) Expeditious disposal of the cases.^{II}
 - (ii) Establishing an early and continuing control of the court over the case, so that it cannot be protracted because of lack of management.^{III}
 - (iii) Discouraging wasteful pre-trial activities.^{IV}
 - (iv) Improving the quality of trial through more thorough preparation of the case by the parties and their attorneys.^V
 - (v) Encouraging the parties to cooperate with each other in conducting the court proceedings.^{VI}
 - (vi) Fixing time tables or otherwise controlling progress of the case.^{VII}
 - (vii) Facilitating settlements and encouraging parties to use ADR procedures.^{VIII}
 - (viii) Giving directions to ensure that the trial of a case proceeds quickly and efficiently.^{IX}
 - (ix) Dealing with as many aspects of the case as is possible on the same occasion.^X
 - (x) For facilitation of the parties, if so required, seeking consultation of the parties or their attorneys in the Case Management and Scheduling Conference(s) through telephone, mail or other technologies.^{XI}

- (2) At any conference under this rule, the court may take appropriate action(s) and pass a scheduling order with respect to:
- (i) The formulation and simplification of issues, including elimination of frivolous claims and defenses^{XII}
 - (ii) The necessity or desirability of amendments in the pleadings.^{XIII}
 - (iii) The necessity or desirability of joining other parties.
 - (iv) The necessity or desirability of any local inspection through commission.
 - (v) Obtaining proposed exhibits from the parties and scrutinizing them within the mandate of Order XIII, and identifying witnesses.
 - (vi) Determining the appropriateness and timing of Summary Judgment under Order XV.
 - (vii) Control of Discovery through **Discovery Management**
 - (viii) Disposition of pending motions through **Motion Management**.
 - (ix) Conducting **Trial Management** for a speedy trial.
 - (x) Facilitating the just, speedy and inexpensive disposal of cases.
- (3) Seven days prior to conducting any Case Management Conference for scheduling motions, discovery, settlement or trial, the court shall serve the agenda items of the conference to the parties or their counsels through prescribed proformas-A, B, C & D.
- (4) ***Motion Management and Scheduling Order(s).***^{XIV}
- (A) The court after consultation with the attorneys of the parties and unrepresented parties shall fix the following three dates:—
- (i) A date by which the parties shall file any of the applications (*i.e.* under order 6 rule 17 CPC, Order 1 rule 10 CPC, order 7 rule 11 CPC, order 26 rule 9 CPC, or any other applications) required for completion of pleadings, and shall provide copies of such application(s) to the other party(ies).
 - (ii) Another date by which the parties shall file written replies to such application(s), and shall give copies of written reply(ies) to the opposite parties.
 - (iii) A third date by which unless the hearing is adjourned, the application(s) shall be disposed of.

- (B) No opportunity shall be provided to any party for making any such application(s) if he/she opts not to file such application(s) or reply thereto after exhausting the opportunity provided under rule 4(A).
 - (C) If it is not convenient to decide all the applications collectively, the court may decide them separately by making a fixed schedule for their disposal.
- (5) ***Discovery Management and Scheduling Order(s)*** After the completion of pleadings, in accordance with the nature of the litigation, the court shall fix a timetable(Schedule) for:
- (A) Developing with the consultation of the attorneys of the parties and unrepresented parties a factual and legal statement of controversy.^{xv}
 - (B) Employing all or any modes of “litigant conducted investigation” provided in Order 10, 11 and 12 CPC.
 - (C) Requiring parties and their counsels to submit their proposed exhibits along with Proforma-E, and conducting their scrutiny in accordance with the mandate of Order 13 CPC.
- (6) ***Trial Management and Scheduling Order(s)*** ^{xvi} After framing of the issues, if the case is fixed for trial, then the court with the consultation of attorneys of the parties and any unrepresented party(ies), shall within seven days, establish a time table (Schedule)for:
- A. Presenting and exchanging the list of witnesses, which the parties intend to produce in the court either to give evidence or produce documents, on the prescribed Proformas-F1 & F2.
 - B. Procuring the certificates of readiness from the parties to produce their witnesses and documentary evidence in the court on the prescribed Proforma-G.
 - C. Proceeding with the trial in accordance with the schedule, within which, the parties shall be bound to present their evidence and cross examine each other's witnesses
- (7) ***Settlement Conference & Scheduling Order*** At any stage during the proceedings of a case, the court with the consent of the parties, may employ any of the modes of Alternate Dispute Resolution for expeditious disposal of the case.
- (8) ***Imposing fee and cost*** ^{xvii} If a party or his attorney fails to appear at a Case Management and Scheduling Conference, or is substantially unprepared to participate, or does not participate in good faith in the conference, or fails to obey a case management and scheduling order, the

court in addition to any other sanction, must order the party to pay reasonable expenses, unless such non compliance was substantially justified or other circumstances made an award of expenses unjust.

- (9) ***Modifying a Schedule***^{XVIII} A court, with the consultation of the attorneys of the parties and any unrepresented party, may modify a schedule, only if a good cause is shown. After such modification in the schedule/time table, the court shall issue a fresh schedule/time table in consultation with the attorneys of the parties and any unrepresented party. Issuing schedules/time tables with the consultation of the attorneys is a mandatory feature, and no party or his attorney can opt to exclude itself from such consultation.
- (10) ***Piloting Clause*** This amendment in the Order 9-A CPC is a pilot legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be over sighted by the Rule Committee of the Hon'ble High Court for the stipulated period, following which, the Rule Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the rules. On the expiry of piloting period, this pilot clause shall cease to exist.^{XIX}

^IRule 16 of Federal Rule of Civil Procedure USA provides the concept of "Pre-Trial Case Management and Scheduling Conference". In Federal Courts of USA, Rule-16 has served as the most affective instrument of Case Management, and has resulted in expeditious disposal of cases. Even in United Kingdom (UK), the Woolf Report on "Access to Justice" recommended for active "Case Management", and in this regard, 1.4(1) of *Civil Procedure Code 1998 of England and Wales*, assigns duty to the courts to actively manage cases. Accordingly, on the basis of such recommendations of the Woolf Report, the entire *CPR, 1998* was moduled to actively employ the concepts of Case Management broadly enumerated in 1 4(1) of CPR to establish a "Managed System of Dispute Resolution"

^{II}Rule 16(a)(1) *Federal Rules of Civil Procedure, USA*.

^{III}Rule 16(a)(2) *Federal Rules of Civil Procedure, USA*

^{IV}Rule 16(a)(3) *Federal Rules of Civil Procedure, USA*.

^V Rule 16(a)(4) *Federal Rules of Civil Procedure, USA*.

^{VI} Rule 1 4(2)(a)*Civil Procedure Rules, England and Wales, 1998* Active case management includes encouraging the parties to cooperate with each other in the conduct of proceedings.

^{VII} Rule 1.4(2)(g) *Civil Procedure Rules, England and Wales 1998* One of the most important finding of the Woolf Report was that the Civil Justice System failed to deliver because the progress of the cases was left largely to the parties. He required introduction of Case Management Procedures to change this traditional position, and opted for such a procedural module, where the progress of case was not left in the hands of the parties. In this sense, Case Management means the exercise by the court of the power given to it to enable it, and not the parties, to dictate the progress of the cases Through this process, the court controls the progress of the case by fixing time tables. Under this "Court Controlled Approach" to Case Management, the court is able to monitor the progress of the case from an early stage

^{VIII} Rule 2(e) *Civil Procedure Rules, England and Wales 1998* Further see Rule 16(a)(5) *Federal Rules of Civil Procedures, USA*.

^{ix}Rule 2(l) *Civil Procedure Rules, England and Wales 1998*. Active Case Management includes the court giving directions to ensure that the trial of a case proceeds quickly and efficiently.

^xRule 2(i) *Civil Procedure Rules, England and Wales, 1998* According to this module, the parties to a case and the judges should not be encouraged to deal with several aspects of a case on "successive occasions", rather, it would be practicable to deal with them on one "occasion". In this context, the "Case Management and Scheduling Conference" operates as a "work station" which has the agility to manage many proceedings collectively.

^{xI}This concept is taken from Rule 16(b) *Federal rules of Civil Procedure USA*, and 1.4(j)(k) of *Civil Procedure Rules England and Wales 1998*.

^{xII} Rule 16 (c)(1) *Federal Rules of Civil Procedure USA*

^{xIII} *Ibid.*, Rule 16(c)(2)

^{xIV} This concept is derived from Rule 16(b) (c) (3) of *Federal Rules of Civil Procedure USA*, wherein, the scheduling order must limit the time to join other parties, amend the pleadings, complete discovery, and file motions. Based on this concept, section 9-A was introduced in Civil Procedure Code 1908 on 02-10-2001 in the following manner:-

9-A. Intermediate Dates

1. *Fixation of Intermediate dates. After the close of the pleadings, the court shall fix;*

(a) *a day by which parties shall apply for orders of the court with regard to any of the following matters, namely—*

Pleadings, further and better particulars, admission, discoveries, inspection of documents or of movable property and the mode by which particular facts may be proved;

(b) *another day by which parties may reply such applications; and*

(c) *a third day of which, unless the hearing is adjourned, the applications shall be disposed of.*

Although, 9-A CPC was introduced in the *Civil Procedure Code 1908* as a module of Case Management, yet on account of its weak conceptual understanding and poor legislative drafting, this provision was barely exercised in the courts since its birth. Even, the 60th report of Law Commission of Pakistan at page-149 acknowledges the importance of this provision in the following words:-

"4. By addition of Order IX-A in the code a new and very important concept of case management has been introduced which is generally followed in developed countries to check belated complication of suits and to rectify faults at initial stage of hearing"

^{xv} Empirical evidence suggests that our civil courts usually proceed with the civil cases without having a deep understanding into the legal and factual aspect of the controversy. Therefore, it is imperative that in order to grasp the controversy in a civil suit, a civil court after filing of the written statement of the defendant(s), should formulate a legal and factual statement of the controversy with the consultation of the parties. This exercise will not only prune the frivolous and un-required aspects of the pleadings, but will improve the control of the judicial officer over the real contours of the controversy.

^{xvi}This concept is taken from Rule-16(c)(7) and(d) of *Federal Rule of Civil Procedure, USA*, whereby, Case Management and Scheduling Conference is used for identifying witnesses and documents, scheduling the filing and exchange of any pre-trial brief, and setting dates for further conferences and for trial. In *Civil Procedure Code, 1908*, parties present their list of witnesses under Order 16 Rule 1 and the list of documentary evidence which they intend to rely upon under Order 13 Rule 1 of Civil Procedure Code.

^{xvii}This concept is taken from Rule-16(f) of *Federal Rules of Civil Procedure, USA*

^{xviii}This concept is taken from Rule-16(b) of *Federal Rules of Civil Procedure, USA..*

^{xix}To oversee the efficacy of procedural legislative instruments, in many international jurisdictions, piloting is done through Pilot Project Rules (PPRs). These PPRs are practiced in Pilot Courts for a designated period of time, and after over sight and review of working of these rules in Pilot Courts, they are given permanence. For reference see "Superior Court PAD Pilot Rules-Proportional Discovery/Automatic Disclosure Pilot Project for Carroll and Stafford Country Superior Courts".

Order XV-A

Summary Judgment

1. Application for summary judgment.—A party may move an application for summary judgment identifying the whole claim or defense, or each claim or defense on which summary judgment is sought, or the court may grant such summary judgment on its own initiative, if:—

- (a) it is satisfied that (i) the respondent has no real prospect of succeeding on such claim or claims or successfully defending such claim or claims, as the case may be, and (ii) there is no genuine dispute as to any material fact requiring a trial and a party is entitled to judgment as a matter of law; or
- (b) the parties agree to have all or part of the claim determined by a summary judgment and the court is satisfied that it is appropriate to grant summary judgment.

2. Time to file an application.—Unless the court otherwise directs to prevent injustice, a party may file an application for summary judgment or the court may consider the grant of summary judgment on its own initiative at any time after the close of period allowed to the parties for filing list of documents under Order XIII Rule 1, until 15 days after the development of factual and legal statement of controversy by the court under Order [IX-A Rule 2].

3. Evidence for purposes of summary judgment hearing.—An applicant asserting that a fact cannot be or is genuinely disputed must support the assertion by:—

- (a) citing particular parts of any documentary evidence filed with the court along with the pleadings, or
- (b) showing that the documentary evidence cited does not establish the absence or presence of a genuine dispute or that the respondent cannot produce admissible evidence to support the fact:

Provided, that documentary evidence will be construed in a manner most favorable to the respondent and any doubts regarding the existence of a genuine issue of material fact will be resolved against the applicant.

4. Procedure.—(1) When an application for summary judgment is filed, the respondent shall be given at least 14 days notice of the date fixed for the hearing along with a copy of the application.

(2) The respondent may file a response to the application for summary judgment, and serve copies on every other party to the application at least 7 days before the summary judgment hearing and the applicant may file a rejoinder to the response, and serve copies on every other party to the application at least 3 days before the summary judgment hearing.

(3) Where the summary judgment hearing is fixed by the court on its own initiative, any party to the proceedings may file an affidavit citing particular parts of the documentary evidence filed with the court to support or oppose the notice issued by the court to consider grant of summary judgment and serve copies of such affidavit on every other party to the proceedings at least 7 days before the summary judgment hearing, and any party may file a response to such affidavit and serve copies on every other party to the proceedings at least 3 days before the summary judgment hearing.

5. Orders the court may pass.—After giving notice and allowing the stipulated time to respond, the court may:—

- (a) grant summary judgment along with costs;
- (b) dismiss the application along with costs;
- (c) grant partial relief in relation to one or more claims or defenses identified in the application that shall be deemed to be established, unless the trial judge orders otherwise to prevent injustice; or
- (d) issue any other appropriate order with directions about the management of the case.

6. Piloting Clause.—This amendment in the Order XV-A CPC is a pilot legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be over sighted by the Rule Committee of the Hon'ble High Court for the stipulated period, following which, the Rule Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the rules. On the expiry of piloting period, this pilot clause shall cease to exist.

PROFORMA 'A'

IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. _____ /2016

Plaintiff(S)

VS

Defendant(S)

(NOTICE FOR MOTION MANAGEMENT AND SCHEDULING CONFERENCE)

It is ordered that the court shall hold a Motion Management and Scheduling Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to inform the court about different applications which they intend to file in the court such as application under Order VII Rule 11, Order I Rule 10, Order VI Rule 17, Order XXXIX Rule 1 & 2, Order XXVI Rule 9 or any other application(s).
- (c) Setting three dates: (1) For filling various applications by either party(ies); (2) For filling of reply(ies) to such applications; and (3) For hearing arguments on such applications collectively.
- (d) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

**(CIVIL JUDGE-WEST)
ISLAMABAD.**

PROFORMA 'B'
IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. _____ /2016

Plaintiff(S)
VS
DEFENDANT(S)

(Notice for Discovery Management and Scheduling Conference)

It is ordered that the court shall hold a Discovery Management and Scheduling Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to develop a factual and legal statement of controversy through a consultative discourse.
- (c) Both the parties will be required to show their preparedness for their examination under Order X CPC, for admitting or denying allegations of facts laid in the plaint, or written statement (if any) of the opposite party.
- (d) Both the parties will be required to acquaint the court, if they like to deliver interrogatories in writing for the examination of the opposite party. If yes, number of interrogatories.
- (e) Both the parties will be required to acquaint the court, if they intend to file application for discovery of documents, which are in possession of the opposite party.
- (f) Both the parties will be required to inspect the document referred in the pleadings of either party, and which are in possession of the other party.
- (g) Both the parties will be required to acquaint the court if they intend to send notice to the other party to admits some documents or facts.
- (h) Both the parties will be required to submit their proposed exhibits alongwith duly filled Proforma 'E' for the scrutiny of those exhibits within the mandate of Order XIII CPC.
- (i) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVIL JUDGE-WEST)
ISLAMABAD.

PROFORMA 'C'**IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST**

Civil Suit No. _____ /2016

Plaintiff(S)

VS

Defendant(S)

(Notice for Trial Management and Scheduling Conference)

It is ordered that the court shall hold a Trial Management and Scheduling Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to present and exchange the list of witnesses, which they intend to produce in the court, either to give evidence or to produce documents, on the prescribed Proformas 'F1' & 'F2'.
- (c) Both the parties will be required to tender certificate of readiness, to produce their witnesses and documents in the court, through Proforma 'G'.
- (d) Both the parties will be required to give a schedule/time table, within which, they would be bound to present their evidence and cross examine each other witnesses.
- (e) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVIL JUDGE-WEST)
ISLAMABAD.

PROFORMA 'D'

IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. _____/2016

Plaintiff(S).

VS

Defendant(S)

(Notice for Settlement Conference)

It is ordered that the court shall hold a Settlement Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.

- (b) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVIL JUDGE-WEST)
ISLAMABAD.

PROFORMA 'E'

IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. _____ /2016

Plaintiff(S) VS Defendant(S)

(LIST OF PROPOSED EXHIBITS SUBMITTED BY THE PARTIES AT THE FIRST HEARING OF THE SUIT UNDER ORDER XIII)

EXHIBIT LIST		
<input type="checkbox"/> PLAINTIFF	<input type="checkbox"/> DEFENDANT	
SERIAL NO.	DESCRIPTION OF DOCUMENT(S)	EVIDENCE OF WHICH FACT(S)

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____

Signature(s) of the Plaintiff(s)/Defendant(s) and their counsel(s) _____

PROFORMA 'F-1'**IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST**

Civil Suit No. _____ /2016

Plaintiff(S) VS Defendant(S)

(LIST OF WITNESSES AND DOCUMENTS TENDERED BY THE PARTIES UNDER ORDER XVI CPC)

<input type="checkbox"/> PLAINTIFF		<input type="checkbox"/> DEFENDANT			LIST OF WITNESSES AND DOCUMENTS	
SERIAL NO.	DESCRIPTION OF DOCUMENT(S)	CORRESPONDING WITNESS (S) NAME, ADDRESS, MOBILE NUMBER	EVIDENCE OF WHICH FACT (S)	DATE & NUMBER OF ENDORSEMENT BY THE COURT AS PROPOSED EXHIBITS		

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____

Signature(s) of the Plaintiff(s)/Defendant(s) and their counsel(s) _____.

PROFORMA 'F-2'

IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. _____ /2016

Plaintiff(S) VS Defendant(S)

**(LIST OF WITNESSES AND DOCUMENTS REQUIRED TO BE
TENDERED BY THE PARTIES UNDER ORDER XVI CPC THROUGH
THE PROCESS OF THE COURT)**

LIST OF WITNESSES AND DOCUMENTS				
<input type="checkbox"/> PLAINTIFF		<input type="checkbox"/> DEFENDANT		
SERIAL NO.	DESCRIPTION OF DOCUMENT(S)	CORRESPONDING WITNESS (S) NAME, ADDRESS, MOBILE NUMBER	EVIDENCE OF WHICH FACT (S)	DATE & NUMBER OF ENDORSEMENT BY THE COURT AS PROPOSED EXHIBITS

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____

Signature(s) of the Plaintiff(s)/Defendant(s) and their counsel(s) _____.

PROFORMA 'G'

IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. _____ /2016

Plaintiff(S) VS. Defendant(S)

**(CERTIFICATE OF READINESS OF EVIDENCE UNDER ORDER XVI
RULE I CPC)**

PLAINTIFF

DEFENDANT

It is certified by the Plaintiff(s)/Defendant(s) that:

- (a) The witnesses and documents which Plaintiff(s)/ Defendant(s) aspires to produce as evidence in the court, are ready to be produced at the date and time given by the court.
- (b) There are no other witnesses and documents required to be produced in the court, other than those mentioned in Proformas 'E', 'F1' & 'F2'.

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____

Signature(s) of the Plaintiff(s)/Defendant(s) and their counsel(s) _____.

[No. 252/Legislation/IHC.]

SALAMAT ULLAH,
Additional Registrar (Legis).

FINAL PROPOSED DRAFT

DRAFT

NOTIFICATION

Peshawar the ____, 2017.

S. R. O. ____/2017. ---In exercise of the powers conferred by section 122 of the Civil Procedure Code, 1908 (Act No. V of 1908), Hon'ble the Chief Justice and the Judges of the Peshawar High Court, on the recommendations of Hon'ble the Rules Committee of Peshawar High Court, have been pleased to make the following amendments in the first schedule of the Code of Civil Procedure, 1908.

AMENDMENTS

(1) After Order IX CPC, the following new Order IX-A shall be inserted, namely:

“Order IX-A CPC. **Case Management and Scheduling Conference(s)**

- (1) The court at any time during the proceedings of a civil suit and having regard to the provisions of Order X to XV CPC shall ordinarily call for a Case Management & Scheduling Conference, and in so doing, the court shall order the parties and the council of the parties and the unrepresented party(ies) to appear in the court for one or more Case Management and Scheduling Conference(s) for the following purposes:
- (i) expeditious disposal of the cases.
 - (ii) establishing an early and continuing control of the court over the case, so that it cannot be protracted because of lack of management.
 - (iii) discouraging wasteful pre-trial activities.
 - (iv) improving the quality of trial through more thorough preparation of the case by the parties and their attorneys.
 - (v) encouraging the parties to cooperate with each other

in conducting the court proceedings.vi

- (vi) fixing time tables or otherwise controlling progress of the case.
- (vii) facilitating settlements and encouraging parties to use ADR procedures.
- (viii) giving directions to ensure that the trial of a case proceeds quickly and efficiently.
- (ix) for facilitation of the parties, if so required, seeking consultation of the parties or their attorneys in the Case Management and Scheduling Conference (s) through telephone, mail or other technologies.

In case the court does not call for such conference, it shall be bound to record reasons for not doing so.

(2) At any conference under this rule, the court may take appropriate action(s) and pass a scheduling order with respect to:

- (i) the formulation and simplification of issues, including elimination of frivolous claims and defenses;
- (ii) the necessity or desirability of amendments in the pleadings;
- (iii) the necessity or desirability of joining other parties;
- (iv) the necessity or desirability of any local inspection through commission;
- (v) obtaining proposed exhibits from the parties and scrutinizing them within the mandate of Order XIII, and identifying witnesses;
- (vi) determining the appropriateness and timing of Summary Judgment under Order XV;
- (vii) Control of Discovery through Discovery Management;
- (viii) disposition of pending motions through Motion Management;
- (ix) Conducting Trial Management for a speedy trial; and

- (x) facilitating the just, speedy and inexpensive disposal of cases.
- (3) Seven days prior to conducting any Case Management Conference for scheduling the hearing of applications, discovery, settlement or trial, the court shall serve the agenda items of the conference to the parties or their counsels through prescribed proformas-A, B, C & D.
- (4) ***Applications Management and Scheduling Order(s).***
- (a) The court after consultation with the attorneys of the parties and unrepresented parties shall fix the following three dates:-
- (i) a date by which the parties shall file any of the applications (*i.e.* under order 6 rule 17 CPC, Order I rule 10 CPC, order 7 rule 11 CPC, required for completion of pleadings, or any other equity based applications), and shall provide copies of such application(s) to the other party(ies).
 - (ii) another date by which the parties shall file written replies to such application(s), and shall give copies of written reply(ies) to the opposite parties.
 - (iii) a third date by which unless the hearing is adjourned, the application(s) shall be disposed of.
- (b) No opportunity shall be provided to any party for making any such application(s) if he/she opts not to file such application(s) or reply thereto after exhausting the opportunity provided under rule 4(A).
- (c) If it is not convenient to decide all the applications collectively, the court may decide them separately by making a fixed schedule for their disposal.
- (d) Any order made under this rule shall not be appealable or revisable except in an appeal or revision, as the case may be, in the main case.
- (5) ***Discovery Management and Scheduling Order(s).***--After the completion of pleadings, in accordance with the nature of the litigation, the court shall fix a timetable (Schedule) for:

- (a) Developing with the consultation of the attorneys of the parties and unrepresented parties a factual and legal statement of controversy.
 - (b) Employing all or any modes of "litigant conducted investigation"; provided in Order X, XI and XII CPC.
 - (c) Requiring parties and their counsels to submit their proposed exhibits along with Proforma -E, and conducting their scrutiny in accordance with the mandate of Order XIII CPC.
- (6) **Trial Management and Scheduling Order(s).**---After framing of the issues, if the case is fixed for trial, then the court with the consultation of attorneys of the parties and any unrepresented party(ies), shall within seven days, establish a time table (Schedule) for:
- (a) Presenting and exchanging the list of witnesses, which the parties intend to produce in the court either to give evidence or produce documents, on the prescribed Proformas-FI & F2.
 - (b) Procuring the certificates of readiness from the parties to produce their witnesses and documentary evidence in the court on the prescribed Proforma-G.
 - (c) Proceeding with the trial in accordance with the schedule, within which, the parties shall be bound to present their evidence and cross examine each other's witnesses. All efforts shall be made by the court to hold *de die in diem* trials.
- (7) **Settlement Conference & Scheduling Order.**---At any stage during the proceedings of a case, the court with the consent of the parties, may employ any of the modes of settlement of dispute for expeditious disposal of the case.
- (8) **Penalty for default.**---If a party or his attorney fails to appear at a Case Management and Scheduling Conference, or is substantially unprepared to participate, or does not participate in good faith in the conference, or fails to obey a case management and scheduling order, the court in addition to any other sanction, shall order the party to pay reasonable expenses, unless such non-compliance was substantially justified or other circumstances made an award of expenses unjust or impose a fine. All orders under this rule shall be made justly and fairly, notwithstanding anything contained in any rule or order for the time being enforced.

- (2) After Order XV, the following new Order XV-A shall be inserted, namely:

“Order XV-A

Summary Judgment

1. Application for summary judgment.---A party may move an application for summary judgment identifying the whole claim or defense, or each claim or defense on which summary judgment is sought, or the court may grant such summary judgment on its own initiative, **if:-**

- (a) it is satisfied that (i) the respondent has no real prospect of succeeding on such claim or claims or successfully defending such claim or claims, as the case may be, and (ii) there is no genuine dispute as to any material fact requiring a trial and a party is entitled to judgment as a matter of law; or
- (b) the parties agree to have all or part of the claim determined by a summary judgment and the court is satisfied that it is appropriate to grant summary judgment.

2. Time to file an application.---Unless the court otherwise directs to prevent injustice, a party may file an application for summary judgment or the court may consider the grant of summary judgment on its own initiative at any time after the close of period allowed to the parties for filing list of documents under Order XIII Rule 1, until 15 days after the development of factual and legal statement of controversy by the court under Order IX-A Rule 2.

3. Evidence for purposes of summary judgment hearing.---An applicant asserting that a fact cannot be or is genuinely disputed must support the assertion **by:-**

- (a) citing particular parts of any documentary evidence filed with the court along with the pleadings, or
- (b) showing that the documentary evidence cited does not establish the absence or presence of a genuine dispute or that the respondent cannot produce admissible evidence to support the fact:

Provided, that documentary evidence will be construed in a manner most favorable to the respondent and any doubts regarding the existence of a genuine issue of

material fact will be resolved against the applicant.

4. Procedure.---(1) When an application for summary judgment is filed, the respondent shall be given at least 14 days notice of the date fixed for the hearing along with a copy of the application.

(2) The respondent may file a response to the application for summary judgment, and serve copies on every other party to the application at least 7 days before the summary judgment hearing and the applicant may file a rejoinder to the response, and serve copies on every other party to the application at least 3 days before the summary judgment hearing.

(3) Where the summary judgment hearing is fixed by the court on its own initiative, any party to the proceedings may file an affidavit citing particular parts of the documentary evidence filed with the court to support or oppose the notice issued by the court to consider grant of summary judgment and serve copies of such affidavit on every other party to the proceedings at least 7 days before the summary judgment hearing, and any party may file a response to such affidavit and serve copies on every other party to the proceedings at least 3 days before the summary judgment hearing.

5. Orders the court may pass.---After giving notice and allowing the stipulated time to respond, the court may:-

- (a) grant summary judgment along with costs;
 - (b) dismiss the application along with costs;
 - (c) grant partial relief in relation to one or more claims or defenses identified in the application that shall be deemed to be established, unless the trial judge orders otherwise to prevent injustice; or
 - (d) issue any other appropriate order with directions about the management of the case.”.
- (3) Along with the inserted clauses the schedule attached to the CPC Appendix I shall also include the following Proformas A-G.

PROFORMA 'A'

IN THE COURT OF CIVIL JUDGE -----

Civil Suit No. /2017

Plaintiff(S)

VS

Defendant(S)

(NOTICE FOR APPLICATION MANAGEMENT AND SCHEDULING CONFERENCE)

It is ordered that the court shall hold an application Management and Scheduling Conference on (*Date*) at *@me*. The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to inform the court about different applications which they intend to file in the court such as application under Order VII Rule II, Order I Rule 10, Order VI Rule 17, Order XXXIX Rule I & 2, Order XXVI Rule 9 or any other application(s).
- (c) Setting three dates: (1) For filling various applications by either party(ies); (2) For filling of reply(ies) to such applications; and (3) For hearing arguments on such applications collectively.
- (d) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVIL JUDGE)

PROFORMA 'B'

IN THE COURT OF CIVIL JUDGE -----

Civil Suit No. /2017

Plaintiff(S)

VS

DEFENDANT(S)

(Notice for Discovery Management and Scheduling Conference)

It is ordered that the court shall hold a Discovery Management and Scheduling Conference on *(Date)* at *(Time)*. The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to develop a factual and legal statement of controversy through a consultative discourse.
- (c) Both the parties will be required to show their preparedness for their examination under Order X CPC, for admitting or denying allegations of facts laid in the plaint, or written statement (if any) of the opposite party.
- (d) Both the parties will be required to acquaint the court, if they like to deliver interrogatories in writing for the examination of the opposite party. If yes, number of interrogatories.
- (e) Both the parties will be required to acquaint the court, if they intend to file application for discovery of documents, which are in possession of the opposite party.
- (f) Both the parties will be required to acquaint the court, -if they intend to inspect the document referred in the pleadings of either party, and which are in possession of the other party.
- (g) Both the parties will be required to acquaint the court if they intend to send notice to the other party to admits some documents or facts.
- (h) Both the parties will be required to submit their proposed exhibits alongwith duly filled Proforma 'E' for the scrutiny of those exhibits within the mandate of Order XIII CPC.
- (i) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVIL JUDGE) -----

PROFORMA 'C'

IN THE COURT OF CIVIL JUDGE -----

Civil Suit No. /2017

Plaintiff(S) VS

Defendant(S)

(Notice for Trial Management and Scheduling Conference)

It is ordered that the court shall hold a Trial Management and Scheduling Conference on *(Date)* at *(Time)*. The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to present and exchange the list of witnesses, which they intend to produce in the court, either to give evidence or to produce documents, on the prescribed Proformas 'F1' & 'F2'.
- (c) Both the parties will be required to tender certificate of readiness, to produce their witnesses and documents in the court, through Proforma 'G'.
- (d) Both the parties will be required to give a schedule/time table, within which, they would be bound to present their evidence and cross examine each other witnesses.
- (e) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVIL JUDGE)

PROFORMA 'D'

INTHE COURT OF CIVIL JUDGE -----
Civil Suit No. /2017
Plaintiff(S) vs
Defendant(S)

(Notice for Settlement Conference)

It is ordered that the court shall hold a Settlement Conference on *(Date)* at *ffime*. The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVIL JUDGE) -----

PROFORMA 'E'

IN THE COURT OF CIVIL JUDGE -----
Civil Suit No. /2017
Plaintiff(S) VS Defendant(S)

(LIST OF PROPOSED EXHIBITS SUBMITTED BY THE PARTIES AT THE FIRST HEARING OF THE SUIT UNDER ORDER XIII)

EXHIBIT LIST		
O PLAINTIFF	DEFENDANTS	
SERIAL NO.	DESCRIPTION OF DOCUMENT(S)	EVIDENCE OF WHICH FACT(S)

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____ Signature(s)
of the Plaintiff(s)/Defendant(s) and their counsel(s),_____

PROFORMA 'F-1'

IN THE COURT OF CIVIL JUDGE -----

Civil Suit No. /2017

Plaintiff(S) VS Defendant(S)

*(LIST OF WITNESSES AND DOCUMENTS TENDERED BY THE PARTIES
UNDER ORDER XVI CPC)*

LIST OF WITNESSES AND DOCUMENTS				
PLAINTIFF		DEFENDANT		
SERIAL NO.	DESCRIPTION OF DOCUMENT(S))	CORRESPONDING WITNESS (S) NAME, ADDRESS, MOBILE	EVIDENCE OF WHICH FACT (S)	DATE & NUMBER OF ENDORSEMENT BY THE COURT AS PROPOSED EXHIBITS

Name(s) of the plaintiff(s)/defendant(s) _____

Signature(s) of the Plaintiff(s)/Defendant(s) and their counsel(s) _____

PROFORMA 'F-2'

IN THE COURT OF CIVIL JUDGE -----

Civil Suit No. /2017

Plaintiff(S) VS Defendant(S)

*(LIST OF WITNESSES AND DOCUMENTS REQUIRED TO BE TENDERED BY
THE PARTIES UNDER ORDER XVI CPC THROUGH THE PROCESS OF THE
COURT)*

LIST OF WITNESSES AND DOCUMENTS				
PLAINTIFF		DEFENDANT		
SERIAL NO.	DESCRIPTION OF DOCUMENT(S)	CORRESPONDING WITNESS (S) NAME, ADDRESS, MOBILE NUMBER	EVIDENCE OF WHICH FACT (S)	DATE & NUMBER OF ENDORSEMENT BY THE COURT AS PROPOSED EXHIBITS

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____ Signature(s)
of the Plaintiff(s)/Defendant(s) and their counsel(s) _____

PROFORMA 'G'

IN THE COURT OF CIVIL JUDGE -----

Civil Suit No. /2017

Plaintiff(S) VS. Defendant(S)

(CERTIFICATE OF READINESS OF EVIDENCE UNDER ORDER XVI RULE 1
CPC)

PLAINTIFF

DEFENDANT

It is certified by the Plaintiff(s)/Defendant(s) that:

- (a) The witnesses and documents which Plaintiff(s)/ Defendant(s) aspires to produce as evidence in the court, are ready to be produced at the date and time given by the court.
- (b) There are no other witnesses and documents required to be produced in the court, other than those mentioned in Proformas 'E', 'F1' & 'F2'.

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____

Signature(s) of the Plaintiff(s)/Defendant(s) and their counsel(s) _____

FEEDBACK ON PROPOSED AMENDMENTS BY

- **SINDH JUDICIAL ACADEMY**
- **LAW & JUSTICE COMMISSION OF PAKISTAN**
- **LAW & JUSTICE DIVISION, GOVERNMENT OF PAKISTAN**
- **OFFICE OF THE ATTORNEY-GENERAL OF PAKISTAN**
- **OFFICE OF ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA**

FEEDBACK ON PROPOSED AMMENDMENTS

ANNEXURES

Sr. No.	Annexure	Description
01	Annexure A	Sindh Judicial Academy.
02	Annexure B	Law & Justice Commission of Pakistan.
03	Annexure C	Law & Justice Division, Government of Pakistan.
04	Annexure D	Office of the Attorney-General of Pakistan.
05	Annexure E	Office of Advocate-General, Khyber Pakhtunkhwa, Peshawar.

Annex - A



Sindh Judicial Academy

Bungalow No.1, Ferozenana Road, Bath Island, Clifton, Karachi

Tel: 021-99250629 Fax: 021-99250628

Ref. No. SJA/ACD002-179/Sec.-*6578*

Dated: 28-12-2016

✓The Registrar,
Islamabad High Court,
Islamabad.

(Na)
3.1.17
A.R.(Key)
3/1/17

Sub: CASE MANAGEMENT AND SUMMARY JUDGEMENT RULES

Respected Sir,

I am directed to enclosed herewith a copy of "Case Management and Summary Judgement Rules" with our views/ comments/ suggestions/ objections as desired please.

SECRETARY
Sindh Judicial Academy
Karachi

RR RO

PART II

Statutory Notifications (S.R.O.)

Government of Pakistan

ISLAMABAD HIGH COURT, ISLAMABAD

NOTIFICATION

ISLAMABAD the 7th November 2016

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S. R. O. 1038 (1)/2016.-In exercise of the powers conferred under Article 202 of the Constitution of Islamic Republic of Pakistan, 1973, read with Section 122 of the Civil Procedure Code, 1908, the Hon'ble Chief Justice and the Judges of Islamabad High Court, on the recommendations of the Rules Committee of Islamabad High Court, have been pleased to make the following practice and procedure rules in the Code for information of all persons likely to be affected thereby and notice is hereby given that the draft rules will be taken into consideration after a period of 60 days from the date on which copies of the Gazette of Pakistan in which this notification is published, are made available to the public;

Commented [A2]: Avoid using abbreviation for a term used first time

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Commented [A3]: Word Hon'ble has been used earlier and therefore it is not necessary here in particularly for a Committee

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Commented [A4]: For referring Civil Procedure Code, 1908 in subsequent lines as the Code is a better idea.

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Objections or suggestions, if any, may be addressed to the Additional Registrar (Legislation), Islamabad High Court, G-10/1, Islamabad.

Any objection or suggestion, which may be received from any person in respect of the said draft rules before the expiry of the period specified above, will be considered by the Authority.

INDEX.

Sr. No.	Title of Documents	Page No.
1	Draft of Conceptual basis of Amendment in Order IX-A CPC	1-7
2	Order XV-A, Summary Judgment	8-9
3	Proforma-A (Notice for Motion Management)	10
4	Proforma-B (Notice for Discovery Management)	11
5	Proforma-C (Notice for Trial Management)	12
6	Proforma-D (Notice for Settlement Conference)	13
7	Proforma-E (List of Proposed Exhibits) UIO XIII CPC	14

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Commented [A5]: It is a new provision/Order in the Code and therefore word insertion would be more appropriate. Earlier Lahore High Court vide notification No. 300/Rules/XI-Y-26 dated 02-10-2001, Gaz. Of Punj. Extra Pt. III. 28-11-2001 inserted Order IX-A. A study may be conducted to see its impact. For IHC it is new law/Order.

Commented [A6]: Format to refer Order may have similarity. We may write like 'Under Order XIII, C.P.C.'

8	Proforma-F1 (List of Witnesses) <i>UIO XVI CPC</i>	15
9	Proforma-F2 (List of Witnesses) <i>UIO XVI CPC</i>	16
10	Proforma-G (Certificate of Readiness of Evidence) <i>UIO XVI Rule 1 CPC</i>	17

CONCEPTUAL BASIS OF AMENDMENT IN ORDER IX-A CPC

(Concept Note: Without disturbing the main scheme of Civil Procedure Code, 1908, or bringing any procedural novation, this amendment aspires to employ the techniques of Case Management derived from Rule 16 Federal Rules of Civil Procedure, USA, and Civil Procedure Rules, England and Wales. Woolf Reforms in UK and Civil Justice Reform Act 1991 of USA influenced changes in Civil Procedures of UK and USA by developing certain Case Management techniques, resulting in shifting the control of civil litigation from the litigants to the courts, extending a proactive managerial role of the Presiding Officers. In this context, this amendment aspires to create a procedural "work station" wherein all the proceedings are regulated by the Presiding Officers in a consultative discourse, designed to curb delay and defeat adversarial tactics of the parties. This work station, as an instrument of Case Management, has the ability to deal with many aspects of the case on the same occasion. To keep the conceptual foundation of this instrument intact, all the provisions and concepts taken from Civil Procedure of UK and US.A are kept in their original legislative language).

Order IX-A CPC. Case Management and Scheduling Conference(s)¹

(1) The court *after service of summons upon the defendant at any time during the proceedings of a civil suit may call the parties and their counsels if available on record for a Case Management & Scheduling Conference for the following purposes;*

- (i) Expedited disposal of the cases;
- (ii) Establishing an early and continuing control of the court over the case, so that it cannot be protracted because of lack of management;
- (iii) Discouraging wasteful pre-trial activities;
- (iv) Improving the quality of trial through more thorough preparation of the case by the parties and their attorneys;

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- (v) Encouraging the parties to cooperate with each other in conducting the court proceedings;
- (vi) Fixing time tables or otherwise controlling progress of the case;
- (vii) Facilitating settlements and encouraging parties to use ADR procedures;
- (viii) Giving directions to ensure that the trial of a case proceeds quickly and efficiently;
- (ix) Dealing with as many aspects of the case as is possible on the same occasion; and
- (x) For facilitation of the parties, if so required, seeking consultation of the parties or their attorneys in the Case Management and Scheduling Conference(s) through telephone, mail or other technologies.

(2) At any conference under this rule, the court may take appropriate action (s) and pass a scheduling order with respect to:

- (i) The formulation and simplification of issues, including elimination of frivolous claims and defenses.
- (ii) The necessity or desirability of amendments in the pleadings.
- (iii) The necessity or desirability of joining other parties.
- (iv) The necessity or desirability of any local inspection through commission.
- (v) Obtaining proposed exhibits from the parties and scrutinizing them within the mandate of Order XIII, and identifying witnesses.
- (vi) Determining the appropriateness and timing of Summary Judgment under Order XV-A.
- (vii) Control of Discovery through Discovery Management.
- (viii) Disposition of pending motions through Motion Management.
- (ix) Conducting Trial Management for a speedy trial.
- (x) Facilitating the just, speedy and inexpensive disposal of cases.

(3) Seven days prior to conducting any Case Management Conference for scheduling motions, discovery, settlement or trial, the court shall serve the agenda items of the conference to the parties or their counsels through prescribed proformas-A, B, C & D.

(4) *Motion Management and Scheduling Order(s).*

(A) The court after consultation with the attorneys of the parties and unrepresented parties shall fix the following three dates;

- (i) A date by which the parties shall file any of the applications (*i.e.* under Order VI, Rule 17, C.P.C., Order I, Rule 10, C.P.C., Order VII, Rule 11, C.P.C., Order XXVI, Rule 9, C.P.C., or any other applications) required for completion of pleadings, and shall provide copies of such

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Commented [A11]: Provision of oral examination [Order X Rules 1 and 2] & production of documents [Order XIII, Rule 1] are already available in the law. In our jurisdiction consultation would be difficult process. Advocates would start disputing judges. We need to be very conscious while adding this provision of law. However introducing e-communication mechanism is an innovative idea as it is need of the time. Terminology may be used for service of summons, recording evidence, for hearing including oral examination of parties etc

Commented [A12]: Settlement of issues under Order XIV serve the purpose

Commented [A13]: This issue relates to other proposed section.

Commented [A14]: Motions is a term used in USA for Application. They file motion for mise. or interim relief whereas we file application

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application(s) to the other party(ies).

- (ii) Another date by which the parties shall file written replies to such application(s), and shall give copies of written reply(ies) to the opposite parties.
- (iii) At third date by which unless the hearing is adjourned, the application(s) shall be disposed of.

(B) No opportunity shall be provided to any party for making any such application(s) if he/she opts not to file such application(s) or reply thereto after exhausting the opportunity provided under rule 4(A).

(C) If it is not convenient to decide all the applications collectively, the Court may decide them separately by making a fixed schedule for their disposal.

(5) *Discovery Management and Scheduling Order(s)* After the completion of pleadings, in accordance with the nature of the litigation, the court shall fix a timetable (Schedule) for:

(A) Developing with the consultation of the counsels of the parties and unrepresented parties a factual and legal statement of controversy.

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(B) Employing all or any modes of "litigant conducted investigation" provided in Order X, XI and XII, C.P.C.

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(C) Requiring parties and their counsels to submit their proposed exhibits along with Proforma-E, and conducting their scrutiny in accordance with the mandate of Order XIII, C.P.C.

(6) *Trial Management and Scheduling Order(s)*.- After framing of the issues, if the case is fixed for trial, then the court with the consultation of attorneys of the parties and any unrepresented party(ies), shall within seven days, establish a time table (Schedule) for:

A. Presenting and exchanging the list of witnesses, which the parties intend to produce in the court either to give evidence or produce documents, on the prescribed Proformas-F1 & F2.

Commented [A19]: Order XVI, Rule 1 provides the procedure referred to in sub rule 6. What would be effect of amendments? Will the existing law will be omitted? However forms may be introduced by amending Order XVI, Rule 1.

B. Procuring the certificates of readiness from the parties to produce their witnesses and documentary evidence in the court on the prescribed Proforma-G.

C. Proceeding with the trial in accordance with the schedule, within which, the parties shall be bound to present their evidence and cross examine each other's witnesses

(7) *Settlement Conference & Scheduling Order* At any stage during the proceedings of a case, the court with the consent of the parties, may employ any of the modes of Alternate Dispute Resolution for expeditious disposal of the case.

Commented [A20]: This with some more detail exist in Order X, Rule 1

(8) *Imposing fee and cost* If a party or his attorney fails to appear at a Case Management and Scheduling Conference, or is substantially

unprepared to participate, or does not participate in good faith in the conference, or fails to obey a case management and scheduling order, the court in addition to any other sanction, shall order the party to pay reasonable expenses, unless such noncompliance was substantially justified or other circumstances made an award of expenses unjust.

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(9) Modifying a Schedule A court, with the consultation of the counsels of the parties and any unrepresented party, may modify a schedule, only if a good cause is shown. After such modification in the schedule/time table, the court shall issue a fresh schedule/time table in consultation with the attorneys of the parties and any unrepresented party. Issuing schedules/time tables with the consultation of the attorneys is a mandatory feature, and no party or his attorney can opt to exclude itself from such consultation.

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(10) Piloting Clause This amendment in the Order IX-A CPC is a pilot legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be overseen by the Rules Committee of the Hon'ble High Court for the stipulated period, following which, the Rules Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the rules. On the expiry of piloting period, this pilot clause shall cease to exist.

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Order XV-A

Summary Judgment

1. Application for summary judgment.-A party may move an application for summary judgment identifying the whole or part claim or defense on which summary judgment is sought, or the court may grant such summary judgment on its own initiative, if;

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- (a) it is satisfied that (i) the respondent has no real prospect of succeeding on such claim or claims or successfully defending such claim or claims, as the case may be, and (ii) there is no genuine dispute as to any material fact requiring a trial and a party is entitled to judgment as a matter of law; or
- (b) the parties agree to have whole or part of the claim and the court is satisfied that it is appropriate to grant summary judgment.

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2. Time to file an application.-Unless the court otherwise directs to prevent injustice, a party may file an application for summary judgment or the court may consider the grant of summary judgment on its own initiative at any time after the close of period allowed to the parties for filing list of documents under Order XIII Rule 1, until 15 days after the development of factual and legal statement of controversy by the court under Order IX-A Rule 2 of first schedule of the Code.

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Commented [A21]: The para start with technical sentence. The whole para may be restructured as to facilitate public at large.

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3. Evidence for purposes of summary judgment hearing-An applicant asserting that a fact cannot be or is genuinely disputed must support the assertion by:

- (a) citing particular parts of any documentary evidence filed with the court along with the pleadings, or
- (b) showing that the documentary evidence cited does not establish the absence or presence of a genuine dispute or that the respondent cannot produce admissible evidence to support the fact:

Provided, that documentary evidence will be construed in a manner most favorable to the respondent and any doubts regarding the existence of a genuine issue of material fact will be resolved against the applicant.

4. Procedure-(l) When an application for summary judgment is filed, the respondent shall be given at least 14 days notice of the date fixed for the hearing along with a copy of the application

(2) The respondent may file a response to the application for summary judgment, and supply copies on every other party to the application at least 7 days before the summary judgment hearing and the applicant may file a rejoinder to the response, and supply copies on every other party to the application at least 3 days before the summary judgment hearing.

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(3) Where the summary judgment hearing is fixed by the court on its own initiative, any party to the proceedings may file an affidavit citing particular parts of the documentary evidence filed with the court to support or oppose the notice issued by the court to consider grant of summary judgment and supply copies of such affidavit on every other party to the proceedings at least 7 days before the summary judgment hearing, and any party may file a response to such affidavit and supply copies on every other party to the proceedings at least 3 days before the summary judgment hearing.

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5. Orders the court may pass-After giving notice and allowing the stipulated time to respond, the court may:

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- (a) grant summary judgment along with or without costs;
- (b) dismiss the application along with or without costs;
- (c) grant partial relief in relation to one or more claims or defenses identified in the application that shall be deemed to be established, unless the trial judge orders otherwise to prevent injustice; or
- (d) issue any other appropriate order with directions about the management of the case.

Commented [A22]: This is not so necessary

Commented [A23]: Case may be prolonged if any other direction other than recording evidence is given. This clause may be deleted

6. Piloting Clause-This amendment in the Order XV -A CPC is a pilot

legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be over sighted' by the Rule Committee of the Hon'ble High Court for the stipulated period, following which, the Rule Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the rules. On the expiry of piloting period, this pilot clause shall cease to exist.

PROFORMA 'A'

IN THE COURT OF CIVIL JUDGE ISLAMABAD

Civil Suit No. _____

Deleted: WEST

Plaintiff(s) _____

Deleted: /2016

VS

Defendant(s) _____

Deleted: S

**(NOTICE FOR MISE. APPLICATION MANAGEMENT AND
SCHEDULING CONFERENCE)**

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It is ordered that the court shall hold an *Application Management and Scheduling Conference* on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to inform the court about different applications which they intend to file in the court such as application under Order VII, Rule 11, Order I, Rule 10, Order VI, Rule 17, Order XXXIX, Rules 1 & 2, Order XXVI, Rule 9 or any other application(s).
- (c) Setting *four* dates: (1) For filling various applications by either party(ies); (2) For filling of reply(ies) to such applications; (3) *For rejoinder* and (4) For hearing arguments on such applications collectively.
- (d) Both the parties will be required to discover the chance of settlement and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVILJUDGE _____)
ISLAMABAD.

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PROFORMA 'B'

IN THE COURT OF CIVIL JUDGE ISLAMABAD

Deleted: WEST

Civil Suit No. _____

Deleted: . 12016

Plaintiff(s)

Deleted: S

VS

DEFENDANT(s)

Deleted: S

(Notice for Discovery Management and Scheduling Conference)

It is ordered that the court shall hold a Discovery Management and Scheduling Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to develop a factual and legal statement of controversy through a consultative discourse.
- (c) Both the parties will be required to show their preparedness for their examination under Order X CPC, for admitting or denying allegations of facts laid in the plaint, or written statement (if any) of the opposite party.
- (d) Both the parties will be required to acquaint the court, if they like to deliver interrogatories in writing for the examination of the opposite party. If yes, number of interrogatories.
- (e) Both the parties will be required to acquaint the court, if they intend to file application for discovery of documents, which are in possession of the opposite party.
- (f) Both the parties will be required to acquaint the court, if they intend to inspect the document referred in the pleadings of either party, and which are in possession of the other party.
- (g) Both the parties will be required to acquaint the court if they intend to send notice to the other party to admit some facts or documents.
- (h) Both the parties will be required to submit their proposed exhibits alongwith duly filled Proforma 'E' for the scrutiny of those exhibits within the mandate of Order XIII CPC.
- (i) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

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(CIVIL JUDGE-_____)

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ISLAMABAD.

PROFORMA 'C'

IN THE COURT OF CIVIL JUDGE ISLAMABAD

[Deleted: WEST]

Civil Suit No. _____

[Deleted: /2016]

Plaintiff(s) _____

[Deleted: S]

VS

Defendant(s) _____

[Deleted: S]

(Notice for Trial Management and Scheduling Conference)

It is ordered that the court shall hold a Trial Management and Scheduling Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to present and exchange the list of witnesses, which they intend to produce in the court, either to give evidence or to produce documents, on the prescribed Proformas 'F1' & 'F2'.
- (c) Both the parties will be required to tender certificate of readiness, to produce their witnesses and documents in the court, through Proforma 'G'.
- (d) Both the parties will be required to give a schedule/time table, within which, they would be bound to present their evidence and cross examine each other witnesses.
- (e) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

(CIVLL JUDGE-_____)

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ISLAMABAD.

PROFORMA 'D'

IN THE COURT OF CIVIL JUDGE ISLAMABAD

Civil Suit No. _____

Deleted: WEST

Plaintiff(s) _____

Deleted: /2016

vs

Defendant(s) _____

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(Notice for Settlement Conference)

It is ordered that the court shall hold a Settlement Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:

- (a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.
- (b) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.

Commented [A24]: This clause exist in earlier forms hence not needed. However if there is agreement between the parties for ADR, some mechanism is to be devolve and finalized reflecting name of mediator, mediator's fee, time for completion the process etc.

(CIVIL JUDGE _____)

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ISLAMABAD

PROFORMA 'E'

IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. /2016

Plaintiff(S) VS Defendant(S)

*(LIST OF PROPOSED EXHIBITS SUBMITTED BY THE PARTIES
ATTHE FIRST HEARING OF THE SUIT UNDER ORDER XIII)*

EXHIBIT LIST		
<input type="checkbox"/> PLAINTIFF	<input type="checkbox"/> DEFENDANT	
SERIAL NO	DESCRIPTION OF DOCUMENT(S)	EVIDENCE OF FACT(S)

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) _____

Signature(s) of the Plaintiff(s)/Defendant(s) and their
counsel(s) _____

PROFORMA 'F -1'
IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST
Civil Suit No. ____/2016

Plaintiff(S)vsDefendant(S)

*(LIST OF WITNESSES AND DOCUMENTS TENDERED BY THE PARTIES
UNDER ORDER XVI CPC)*

LIST OF WITNESS AND DOCUMENTS					Formatted Table
PLAINTIFF		DEFENDANT			
SERIAL NO.	DESCRIPTION OF DOCUMENT (S)	CORRESPONDING WITNESS (S) NAME, ADDRESS, MOBILE NUMBER	EVIDENCE OF WHICH FACT (S)	DATE & NUMBER OF ENDORSEMENT BY THE COURT AS PROPOSED EXHIBITS	

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) —
Signature(s) of the Plaintiff(s)/Defendant(s) and their
counsel(s) _____

PROFORMA 'F-2'
IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. ____ /2016

Plaintiff(S) vs Defendant(S)

*(LIST OF WITNESSES AND DOCUMENTS REQUIRED TO
BE TENDERED BY THE PARTIES UNDER ORDER XVI CPC
THROUGH THE PROCESS OF THE COURT)*

LIST OF WITNESS AND DOCUMENTS				
PLAINTIFF		DEFENDANT		
SERIAL NO.	DESCRIPTION OF DOCUMENT (S)	CORRESPONDING WITNESS (S) NAME, ADDRESS, MOBILE NUMBER	EVIDENCE OF WHICH FACT (S)	DATE & NUMBER OF ENDORSEMENT BY THE COURT AS PROPOSED EXHIBITS

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s) ____
Signature(s) of the Plaintiff(s)/Defendant(s) and their
counsel(s) _____

PROFORMA 'G'
IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST

Civil Suit No. _____ /2016

Plaintiff(S) vs. Defendant(S)

**(CERTIFICATE OF READINESS OF EVIDENCE UNDER ORDER
XVIRULE I CPC)**

PLAINTIFFDEFENDANT

It is certified by the Plaintiff(s)/Defendant(s) that:

- (a) The witnesses and documents which Plaintiff(s)/ Defendant(s) aspires to produce as evidence in the court, are ready to be produced at the date and time given by the court.
- (b) There are no other witnesses and documents required to be produced in the court, other than those mentioned in Proformas 'E', 'F1' & 'F2'.

Name(s) of the plaintiff(s)/defendant(s) and their counsel(s)
Signature(s) of the Plaintiff(s)/Defendant(s) and their counsel(s)
[No. 252/Legislation/IHC.]

SALAMA T
ULLAH, *Additional
Registrar (Legis).*

SUPREME COURT OF PAKISTAN
BUILDING CONSTITUTION AVENUE,
ISLAMABAD

E-MAIL: MANZOOR@LJCP.GOV.PK



F.No.DS-I/IHC/RULES-16/2017

PH: +92 (0)51 9207256
FAX: +92 (0)51 9214797

Anwer-B

MANZOOR AHMED SHAIKH

DEPUTY SECRETARY
LAW & JUSTICE COMMISSION OF PAKISTAN
GOVERNMENT OF PAKISTAN

Islamabad, the 1st April, 2017

Subject:

Case Management and Summary Judgement Rules.

Dear Sir,

I am directed to refer to your letter No.257/legislation/IHC dated 8-12-2016 (copy enclosed) on the subject cited above and to enclose the proposed amendments/suggestions in the subject Rules in tabulated form for your perusal and further necessary action.

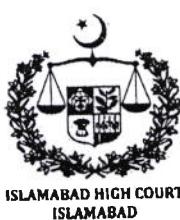
Regards.


Deputy Secretary

Encl: As above.

The Registrar,
Islamabad High Court,
Islamabad.

3633
09-12-16



ISLAMABAD HIGH COURT, ISLAMABAD

No. 257 /Legislation/IHC

Dated: 08/12/2016

From:

The Registrar,
Hon'ble Islamabad High Court,
Islamabad.

To:

1. **The Secretary**
Ministry of Law, Justice & Human Rights
2. **The Secretary**
Law & Justice Commission of Pakistan, Islamabad.

Subject: **CASE MANAGEMENT AND SUMMARY JUDGEMENT RULES**

Dear Sir,

I am directed to refer to the subject cited above and to enclose herewith a copy of "**Case Management and Summary Judgement Rules**" for your kind views/ comments/ suggestions/ objections in the light of gazette notification, dated 07.11.16, attached to these Rules.

With regards.

Yours Faithfully,

Research & Reference Officer (Legislation)
For Registrar

Encl: (As stated)

1. **Case Management and Summary Judgement Rules**
of Islamabad High Court
of the Federal Capital of Pakistan
Islamabad, dated 13-12-2016
Diary No. 436 (JS Research) (JS) n/JPMC
13. 12. 2016

JS N/JPMC

Mr. Mohammad

20. 12. 2016

OS N/JPMC. ~~Review and~~
~~Sign and Comment~~

DS - I

**Comments/suggestions/objection on
Islamabad High Court
Case Management and Summary Judgment (Practice and Procedure)
Rules, 2016**

Sr. #	Rule Proposed By the Islamabad High Court	Existing Provision	Proposed/amended by LJCP
1	Order IX-A CPC.	Order IX-A INTERMEDIATE DATES	Order IX-A Case Management and Scheduling Conference(s)
			<p>(1) The court at any time during the proceedings of a civil suit may call for a Case Management & Scheduling Conference, and in so doing, the court shall order the parties and the attorneys of the parties and the unrepresented party(ies) to appear in the court for one or more Case Management and Scheduling Conference(s) for the following purposes:-</p> <p>After the close of the pleadings, the Court shall fix—</p> <p>(a) a day by which parties shall apply for orders of the Court with regard to any of the following matters, namely:</p> <p>Pleadings, future and better particulars, admission, discoveries, inspection of documents or of moveable property and the mode by which particular facts may be proved.</p>

		<p>(i) Expedited disposal of the cases.</p> <p>(ii) Establishing an early and continuing control of the court over the case, so that it cannot be protracted because of lack of management.</p> <p>(iii) Discouraging wasteful pre-trial activities.</p> <p>(iv) Improving the quality of trial through more thorough preparation of the case by the parties and their attorneys.</p> <p>(v) Encouraging the parties to cooperate with each other in conducting the court proceedings.</p> <p>(vi) Fixing time tables or otherwise controlling progress of the case.</p> <p>(vii) Facilitating settlements and encouraging parties to use ADR procedures.</p>	<p>(i) No Change</p> <p>(ii) No Change</p> <p>(iii) No Change</p> <p>(iv) No Change</p> <p>(v) No Change</p> <p>(vi) No Change</p> <p>(vii) No Change</p>

	(viii) Giving directions to ensure that the trial of a case proceeds quickly and efficiently.	(viii) No Change
	(ix) Dealing with as many aspects of the case as is possible on the same occasion.	(ix) No Change
2	<p>(x) For facilitation of the parties, if so required, seeking consultation of the parties or their attorneys in the Case Management and Scheduling Conference(s) through telephone, mail or other technologies</p> <p>(2) At any conference under this rule, the court may take appropriate action(s) and pass a scheduling order with respect to:</p> <ul style="list-style-type: none"> (i) The <u>formulation</u> and simplification of issues, including elimination of frivolous claims and defenses; (ii) The necessity or desirability of amendments in the pleadings; (iii) The necessity or desirability of joining other parties; (iv) The necessity or desirability of any local inspection 	<p>(viii) No Change</p> <p>(ix) No Change</p> <p>(x) No Change</p> <p>(2) No Change</p> <p>(i) No Change</p> <p>(ii) No Change</p> <p>(iii) No Change</p> <p>(iv) No Change</p>

	commission.	
(v)	Obtaining proposed exhibits from the parties and scrutinizing them within the mandate of Order XIII, and identifying witnesses.	(v) No Change
(vi)	Determining the appropriateness and timing of Summary Judgment under Order XV.	(vi) No Change
(vii)	Control of Discovery through Management.	(vii) No Change
(viii)	Disposition of pending Motion through Management.	(viii) No Change
(ix)	Trial Management for a speedy trial.	(ix) No Change
(x)	Facilitating the just, speedy and inexpensive disposal of cases.	(x) No Change
3	(3) Seven days prior to conducting any Case Conference for scheduling motions, discovery, settlement or trial, the court shall serve the agenda items of the conference to the parties or their counsels through prescribed pro formas- A, B, C &	(3) No Change

D.	(4) Motion Management and Scheduling Order(s).	(4) Motion Management and Scheduling Order(s).
4	<p>(A) The court after consultation with the attorneys of the parties and unrepresented parties shall fix the following three dates:-</p> <p>(i) A date by which the parties shall file any of the applications (i.e. under order 6 rule 17 CPC, Order 1 rule 10 CPC, order 7 rule 11 CPC, order 26 rule 9 CPC, or any other applications) required for completion of pleadings, and shall provide copies of such application(s) to the other party(ies).</p> <p>(ii) Another date by which the parties shall file written replies to such application(s), and shall give copies of written reply(ies) to the opposite parties.</p> <p>(iii) A third date by which unless the hearing is adjourned, the application(s) shall be disposed of.</p> <p>(B) No opportunity shall be provided to any party for making any such application(s) if he/she opts not to file such application(s) or reply thereto after exhausting the opportunity provided under rule 4(A).</p>	<p>(a) No Change</p> <p>(i) No Change</p> <p>(ii) No Change</p> <p>(iii) No Change</p> <p>(b) No Change</p> <p><u>4 (a).</u></p>

	(C) If it is not convenient to decide all the applications collectively, the court may decide them separately by making a fixed schedule for their disposal.	(c) No Change
		(d) When the court fixes the schedule for argument, the court shall also direct the advocates and parties that if any one of them is unable to attend the court on the schedule fixed for argument then the advocate or parties shall file arguments in written form and no adjournment on any ground shall be granted.
5	<p>(5) Discovery Management and Scheduling Order(s) After the completion of pleadings, in accordance with the nature of the litigation, the court shall fix a timetable (Schedule) for:</p> <p>(A) Developing with the consultation of the attorneys of the parties and unrepresented parties a factual and legal statement of controversy.</p> <p>(B) Employing all or any modes of "litigant conducted investigation" provided in Order 10, 11 and 12 CPC.</p>	<p>(5) Discovery Management and Scheduling Order(s).</p> <p>..... No Change</p> <p>(a) No Change</p> <p>(b) No Change</p> <p><u>Order X, XI and XII CPC.</u></p>

<p>(C) Requiring parties and their counsels to submit their proposed exhibits along with Proforma-E, and conducting their scrutiny in accordance with the mandate of Order <u>13</u> CPC.</p>	<p>(c) Requiring parties and their counsels to submit their proposed exhibits along with Proforma-E, and conducting their scrutiny in accordance with the mandate of <u>Order XIII CPC</u>.</p>
---	---

6	<p>(6) Trial Management and Scheduling Order(s) After framing of the issues, if the case is fixed for trial, then the court with the consultation of attorneys of the parties and any unrepresented party(ies), shall within seven days, establish a time table (Schedule) for:</p> <ul style="list-style-type: none"> A. Presenting and exchanging the list of witnesses, which the parties intend to produce in the court either to give evidence or produce documents, on the prescribed Proformas-F1 & F2. B. Procuring the certificates of readiness from the parties to produce their witnesses and documentary evidence in the court on the prescribed Proforma-G. C. Proceeding with the trial in accordance with the schedule, within which, the parties shall be bound to present their evidence and cross examine each other's witnesses 	<p>(6) Trial Management and Scheduling Order(s).</p> <p>..... No Change</p> <p>(a) No Change</p> <p>(b) No Change</p> <p>(c) No Change</p> <p>(7) No Change</p>
7	<p>(7) Settlement Conference & Scheduling Order At any stage during the proceedings of a case, the court with the consent of the parties, may</p>	

	employ any of the modes of Alternate Dispute Resolution for expeditious disposal of the case.	
8	<p>(8) <u>Imposing fee and cost</u></p> <p>If a party or his attorney fails to appear at a Case Management and Scheduling Conference, or is substantially unprepared to participate, or does not participate in good faith in the conference, or fails to obey a case management and scheduling order, the court in addition to any other sanction, must order the party to pay reasonable expenses, unless such non compliance was substantially justified or other circumstances made an award of expenses unjust.</p>	<p>(8) <u>Imposing fee and cost.</u> If a party or his attorney fails to appear at a Case Management and Scheduling Conference, or is substantially unprepared to participate, or does not participate in good faith in the conference, or fails to obey a Case Management and Scheduling Order, the Court in addition to any other sanction, shall order the party to pay reasonable expenses to other party within seven days from the date of order, unless such non compliance was substantially justified or other circumstances made an award of expenses unjust.</p>
9	<p>(9) <u>Modifying a Schedule.</u></p> <p>A court, with the consultation of the attorneys of the parties and any unrepresented party, may modify a schedule, only if a good cause is shown. After such modification in the schedule/time table, the court shall issue a fresh schedule/time table in consultation with the attorneys of the parties and any unrepresented party. Issuing schedules/time tables with the consultation of the attorneys is</p>	<p>(9) <u>Modifying a Schedule.</u></p> <p>..... No Change</p> <p>..... No Change</p> <p>..... No Change</p> <p>..... No Change</p>

10	a mandatory feature, and no party or his attorney can opt to exclude itself from such consultation.	<p>(10) Adjournments.—</p> <p>After order of the case management and scheduling conference the court shall not adjourn the matter except upon adjournment application showing the extraordinary circumstances by establishing a highly unusual set of facts which were beyond control of the party applying for the adjournment.</p>
11	(10) Piloting Clause	<p>This amendment in the Order 9-A CPC is a pilot legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be oversighted by the Rule Committee of the Hon'ble High Court for the stipulated period, following which, the Rule Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the</p>

rules. On the expiry of piloting period, this pilot clause shall cease to exist.

12

2. Applications regarding pleadings, etc., their replies and disposal.---No opportunity shall be given to any party for making any such applications as aforesaid or for submitting a reply thereto after the expiry of the day fixed for that purpose, unless the time is enlarged under the provisions of this Code; but nothing herein shall affect the right of the parties to make such applications before the closing of the pleadings

13

Order XV-A

**ORDER XV
DISPOSAL OF THE SUIT AT THE
FIRST HEARING**

Order XV-A

1. Parties not at issue.--- Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

1. Application for summary judgment.-- A party may move an application for summary judgment identifying the whole claim or defense, or each claim or defense on which summary judgment is sought, or the court may grant such summary

1. Application for summary judgment.--- No Change

	judgment on its own initiative, if:--	(a) No Change
	(a) it is satisfied that (i) the respondent has no real prospect of succeeding on such claim or claims or successfully defending such claim or claims, as the case maybe, and (ii) there is no genuine dispute as to any material fact requiring a trial and a party is entitled to judgment as a matter of law; or (b) the parties agree to have all or part of the claim determined by a summary judgment and the court is satisfied that it is appropriate to grant summary judgment.	(a) No Change
	(b) No Change	(c) No Change
14	2. Time to file an application. --Unless the court otherwise directs to prevent injustice, a party may file an application for summary judgment or the court may consider the grant of summary judgment on its own initiative at any time after the close of period allowed to the parties for filing list of documents under Order XIII Rule 1, until <u>15</u> days after the development of factual and legal statement of	2. Time to file an application. -- Unless the Court otherwise directs to prevent injustice, a party may file an application for summary judgment or the Court may consider the grant of summary judgment on its own initiative at any time after the close of period allowed to the parties for filing list of documents under Order XIII Rule 1, until <u>fifteen</u> days after the development of factual and

	controversy by the court under Order [IX-A Rule 2].	legal statement of controversy by the Court under Order [IX-A Rule 2].
15	<p>3. Evidence for purposes of summary judgment hearing.</p> <p>An applicant asserting that a fact cannot be or is genuinely disputed must support the assertion by:-</p> <ul style="list-style-type: none"> (a) citing particular parts of any documentary evidence filed with the court along with the pleadings, or (b) showing that the documentary evidence cited does not establish the absence or presence of a genuine dispute or that the respondent cannot produce admissible evidence to support the fact; <p>Provided, that documentary evidence will be construed in a manner most favorable to the respondent and any doubts regarding the existence of a genuine issue of material fact will be resolved against the applicant.</p>	<p>3. Evidence for purposes of summary judgment hearing.</p> <p>..... No Change</p> <p>..... :-</p> <p>(a) No Change</p> <p>.....</p> <p>.....</p> <p>(b) No Change</p> <p>.....</p>
16	<p>4. Procedure.-- (1) When an application for summary judgment is filed, the respondent shall be given at least 14 days notice of the date fixed for the hearing along with a copy of the application.</p>	<p>4. Procedure.-- (1) When an application for summary judgment is filed, the respondent shall be given at least fourteen days notice of the date fixed for the hearing along with a copy of the</p>

	<p>(2) The respondent may file a response to the application for summary judgment, and serve copies on every other party to the application at least <u>7</u> days before the summary judgment hearing and the applicant may file a rejoinder to the response, and serve copies on every other party to the application at least <u>3</u> days before the summary judgment hearing.</p> <p>(3) Where the summary judgment hearing is fixed by the court on its own initiative, any party to the proceedings may file an affidavit citing particular parts of the documentary evidence filed with the Court to support or oppose the notice issued by the court to consider grant of summary judgment and serve copies of such affidavit on every other party to the proceedings at least <u>7</u> days before the summary judgment hearing, and any party may file a response to such affidavit and serve copies on every other party to the proceedings at least <u>3</u> days before the summary judgment hearing.</p>	<p>(2) The respondent may file a response to the application for summary judgment, and serve copies on every other party to the application at least <u>seven</u> days before the summary judgment hearing and the applicant may file a rejoinder to the response, and serve copies on every other party to the application at least <u>three</u> days before the summary judgment hearing.</p> <p>(3) Where the summary judgment hearing is fixed by the Court on its own initiative, any party to the proceedings may file an affidavit citing particular parts of the documentary evidence filed with the Court to support or oppose the notice issued by the Court to consider grant of summary judgment and serve copies of such affidavit on every other party to the proceedings at least <u>seven</u> days before the summary judgment hearing, and any party may file a response to such affidavit and serve copies on every other party to the proceedings at least <u>three</u> days before the summary judgment hearing.</p>	<p>5. No Change</p> <p>.....</p> <p>.....</p> <p>(a) No Change</p> <p>.....</p>
17	<p>5. Orders the court may pass.-- After giving notice and allowing the stipulated time to respond, the court may:--</p> <p>(a) grant summary judgment along with costs;</p>		

	(b) No Change
	(c) No Change
	(d) No Change
	(d) No Change
18	<p>6. Piloting Clause. This amendment in the Order XV-A CPC is a pilot legislation, which will be applicable in pilot courts notified by the Hon'ble Chief Justice, Islamabad High Court, Islamabad for a stipulated period. After promulgation of these amendments, working of the pilot courts and pilot procedures will be oversighted by the Rule Committee of the Hon'ble High Court for the stipulated period, following which, the Rule Committee of the Hon'ble Islamabad High Court shall decide about the applicability of these rules to all the courts of Islamabad, and may also consider further necessary amendments in the rules. On the expiry of piloting period, this pilot clause shall cease to exist.</p>

<p>Rule 9 or application(s). (c) Setting three dates:</p> <ul style="list-style-type: none"> (1) For filling various applications by either party(ies); (2) For filling of reply(ies) to such applications; and (3) For hearing arguments on such applications collectively. <p>(d) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.</p>	<p>(c) Setting three dates:</p> <ul style="list-style-type: none"> (1) No Change (2) No Change (3) No Change (d) No Change No Change
20	<p>PROFORMA 'B' IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST. Civil Suit No. _____/2016 Plaintiff (S)</p> <p>VS</p> <p>DEFENDANT (S) (Notice for Discovery Management and Scheduling Conference)</p> <p>It is ordered that the court shall hold a Discovery Management and Scheduling Conference on (Date) at (Time). The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following</p> <p>PROFORMA 'B' IN THE COURT OF CIVIL JUDGE ISLAMABAD (WEST) Civil Suit No. _____/2017 Plaintiff (S) VS DEFENDANT (S) (Notice for Discovery Management and Scheduling Conference)</p> <p>..... No Change</p> <p>..... No Change</p> <p>..... No Change</p> <p>..... No Change</p>

agenda items:

(a) Both the parties will be required to inform the court that they have gone through each other pleadings and are aware of the nature and basis of each other claims.

(b) Both the parties will be required to develop a factual and legal statement of controversy through a consultative discourse.

(c) Both the parties will be required to show their preparedness for their examination under Order X CPC, for admitting or denying allegations of facts laid in the plaint, or written statement (if any) of the opposite party.

(d) Both the parties will be required to acquaint the court, if they like to deliver interrogatories in writing for the examination of the opposite party. If yes, number of interrogatories.

(e) Both the parties will be required to acquaint the court, if they intend to file application for discovery of documents, which are in possession of the opposite party.

(f) Both the parties will be

	(a) No Change
	(b) No Change
	(c) No Change
	(d) No Change
	(e) No Change
	(f) No Change

	<p>required to acquaint the court, if they intend to inspect the document referred in the pleadings of either party, and which are in possession of the other party.</p> <p>(g) Both the parties will be required to acquaint the court if they intend to send notice to the other party to admits some documents or facts.</p> <p>(h) Both the parties will be required to submit their proposed exhibits along with duly filled Proforma 'E' for the scrutiny of those exhibits within the mandate of Order XIII CPC.</p> <p>(i) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.</p>	<p>(g) No Change</p> <p>(h) No Change</p> <p>(i) No Change</p>	<p>PROFORMA 'C'</p> <p>IN THE COURT OF CIVIL JUDGE ISLAMABAD (WEST) Civil Suit No. _____/2017 Plaintiff (S) VS Defendant (S) (Notice for Trial Management and Scheduling Conference)</p> <p>It is ordered that the court shall hold a Trial No Change</p>
21			

	<p>Management and Scheduling Conference on <u>(Date)</u> at <u>(Time)</u>. The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:</p> <p>(a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims.</p> <p>(b) Both the parties will be required to present and exchange the list of witnesses, which they intend to produce in the court, either to give evidence or to produce documents, on the prescribed Proformzas 'F1' & 'F2'.</p> <p>(c) Both the parties will be required to tender certificate of readiness, to produce their witnesses and documents in the court, through Proforma 'G'.</p>	<p>..... No Change</p> <p>(a) No Change</p> <p>(b) No Change</p> <p>(c) No Change</p>
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	(d) Both the parties will be required to give a schedule/time table, within which, they would be bound to present their evidence and cross examine each other witnesses.	(d) No Change
	(e) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.	(e) No Change
22	<p style="text-align: center;">PROFORMA 'D' IN THE COURT OF CIVIL JUDGE ISLAMABAD WEST. Civil Suit No. ____/2016</p> <p style="text-align: center;">Plaintiff (S) _____ VS Defendant (S)</p> <p style="text-align: center;">(Notice for Settlement Conference)</p>	<p style="text-align: center;">PROFORMA 'D' IN THE COURT OF CIVIL JUDGE ISLAMABAD (WEST) Civil Suit No. <u>_____</u>/2017</p> <p style="text-align: center;">Plaintiff (S) VS Defendant (S)</p> <p style="text-align: center;">(Notice for Settlement Conference)</p> <p>It is ordered that the court shall hold a Settlement Conference on <u>(Date)</u> at <u>(Time)</u>. The Conference shall be attended by either the parties in person, or through their counsels fully authorized on their behalf and acquainted with the nature and basis of their claims. The Conference shall be conducted on the following agenda items:</p> <p style="text-align: right;">(a) No Change</p>

	(a) Both the parties will be required to inform the court that they have gone through each other pleadings, and are aware of the nature and basis of each other claims. No Change
	(b) Both the parties will be required to discover the chance of settlement, and inform the court about the intended mode of Alternate Dispute Resolution.	

Amee - C

No.2 (9)/2010-LR
GOVERNMENT OF PAKISTAN
LAW AND JUSTICE DIVISION

Islamabad, the 6 February, 2017

From: **Habib ur Rehman Sheikh**
Additional Secretary/
Consultant (C)

To, **The Additional Registrar(Legislation),
Islamabad High Court,
Islamabad.**

Subject: **CASE MANAGEMENT AND SUMMARY JUDGEMENT RULES**

Dear Sir,

Reference letter No.257/Legislation/IHC dated 8 December 2016 on the subject noted above, it is stated that the Law Reforms Committee considered the proposed amendments in its meeting held on 02-02-2017 and unanimously approved the said amendments in Orders/Rules of CPC to implement as pilot project in the Islamabad District Judiciary.

Yours faithfully

Habib ur Rehman Sheikh
(Habib ur Rehman Sheikh)
Additional Secretary/
Consultant (C)
Tel: 9203464

Annex - D

OFFICE OF THE
ATTORNEY-GENERAL FOR PAKISTAN

Supreme Court Building, Islamabad

This is with reference to your letter No. 260/legislation/IHC dated 08.12.2016. The Office of the Attorney-General appreciates the constant efforts of the Honorable Chief Justice of the Islamabad High Court, the Honorable Judges of the Islamabad High Court and the Honorable Rules Committee of the Islamabad High Court to improve the workings of the judicial system in their jurisdiction.

*(16)
1.1.17
A.R.C. (Clerk)*
2. In this respect the institution of amendments in the Civil Procedure Code 1908 (the "Code"), to introduce effective techniques of case management is a commendable initiative. The amendments, while further develop our judicial apparatus dove tails with the dictate of the Code.

*WY
9/1/17
PR/RO*
3. There is admittedly, a discrepancy in the relationship between the Civil Courts and litigators with regards to civil litigation. The amendments introduce effective techniques of case management, motion management, discovery management and trial management which expand the role of the Courts by extending a proactive supervisory function to the Presiding Officers. Coupled with this, the proposed amendments ensure the active participation of all parties, attorneys and unrepresented parties in the process of coordination to ensure effective civil litigation.

4. It is further helpful that the proposed statutory provisions have been borrowed from international jurisdictions where the same techniques have been employed and improved over time. This allows for our indigenous system to sync organically with global best practices.

5. The proposed amendment, that is the addition of Order XV-A in the Code further builds upon the facilitation of case disposal as provided through Order XV. The inclusion of Summary Judgments under Order XV-A allows a party to itself take the initiative of quick disposal of cases by satisfying the court that there is no significant dispute of fact requiring lengthy trial. Considering the onerous backlog of civil cases the Courts in our country face today, the addition of Order XV-A as a powerful tool for the quick dispensation of justice and speedy disposal of cases is a welcome and much needed step.

6. Finally, it is important to appreciate the trial nature of the aforementioned as proposed pilot amendments. Such classification for a prescribed number of courts will allow us to test the proposed amendments without exposing the fabric of our judicial setup to potential disturbances. However, it is important that we continue evaluating these proposals and their impact in light of our own judicial system.


Khalid Khan Niazi
Secretary to the Attorney-General

The Registrar, Islamabad High Court, Islamabad
AGP UO.No.1 (1)/2017-AGP dated: 06.01.2017

Amber-E



OFFICE OF ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 19677 /AG Dated Peshawar, the 31-Dec-2016

Address: High Court Building, Peshawar.
Tel. No.091-9210631

Exchange No. 9213833
Fax No. 091-9210270

To

The Research & Reference Officer (Litigation),
For Registrar, Islamabad High Court, Islamabad.

Subject: **CASE MANAGEMENT AND SUMMARY JUDGMENT RULES.**

Dear Sir,

I am directed to refer to your letter bearing No. 260/Legislation/IHC, dated 08/12/2016 on the subject noted above and to enclose herewith views/comments of this office, duly endorsed by the Ld. Advocate General, Khyber Pakhtunkhwa for information and further necessary action.

Yours faithfully,

Ashraf
(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER



OFFICE OF ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. _____ /A.G.
Address: High Court Building, Peshawar.
Tel. No. 091-9211013

Dated / / 2016.
Exchange No 9213833
Fax No. 091-9210270

Subject:- **CASE MANAGEMENT AND SUMMARY JUDGMENT RULES.**

Sir,

With reference to letter bearing No. 260/Legislation/IHC, dated 08/12/2016 of office of the Registrar Hon'ble Islamabad High Court, Islamabad it is stated that I have gone through the case Management and Summary Judgment Rules. It is a good attempt in an area which requires due attention and swift action. The Rules are also appreciable but the undersigned would humbly submit some views for further improvement as follows:

The Rules mostly focuses on management of the case before the trial Court. For reducing the life of dispute resolution a holistic approach is needed for management of a case from its institution till the final disposal at the appeal and revision stage. It needs to be realized that disposal of a case by a trial Court does not mean an adjudication of the dispute and its ultimate settlement. It is only a step towards that. This has also not been provided that after a trial Court passes orders at the interim stage what would happen with the Appeals and Revision arising there from and how would those be managed so as to ensure that life of a trial before the trial Court is not lingered. One of the many steps in that regard is that separate record is maintained for the inter locuroy proceedings and the original file of the trial is kept separately which should in no case be requisitioned by the appellate and revisional forums. Similarly, the disposal of inter locuroy applications should not stop progress in the main suit.

If agreed we may forward opinion in the above terms.

30-12-2016

ADVOCATE-GENERAL, KPK.

30-12-2016

(WAQAR AHMAD)
ADDITIONAL ADVOCATE-GENERAL-I,
KHYBER PAKHTUNKHW, PESHAWAR.

ANCESTRY AND MECHANICS OF CIVIL PROCEDURE IN COMMON LAW COURTS

ANCESTRY AND MECHANICS OF CIVIL PROCEDURES IN COMMON LAW COURTS

(PLEADING CENTRIC & TRIAL BASED)

1

I (12th & 13th Century)

Pleadings	Notice	Claim	Controversy framed through imperfectly known facts.	Jury Trial	Jurors were drawn from vicinity of dispute
	Disclosure (Claim)	Written Reply	Claims and defenses might be fictitious and non substantial		Jurors investigated the dispute on their own in advance of trial
		Replication	Pleading system incapacitated to differentiate between real and sham issues		Juror came to speak and deliver judgment, rather than hear evidence.
		Rejoinder	Assertions of parties taken at face value		
		Single Issue Pleading	Did not provide adequate basis for trial		
			Clear statement of facts gave way to vague claims and allegations by both plaintiff and defendant which could not be proved in trial. Smoke screening of facts Written pleading was supposed to do something it was inherently incapable of doing		

II (14th Century)

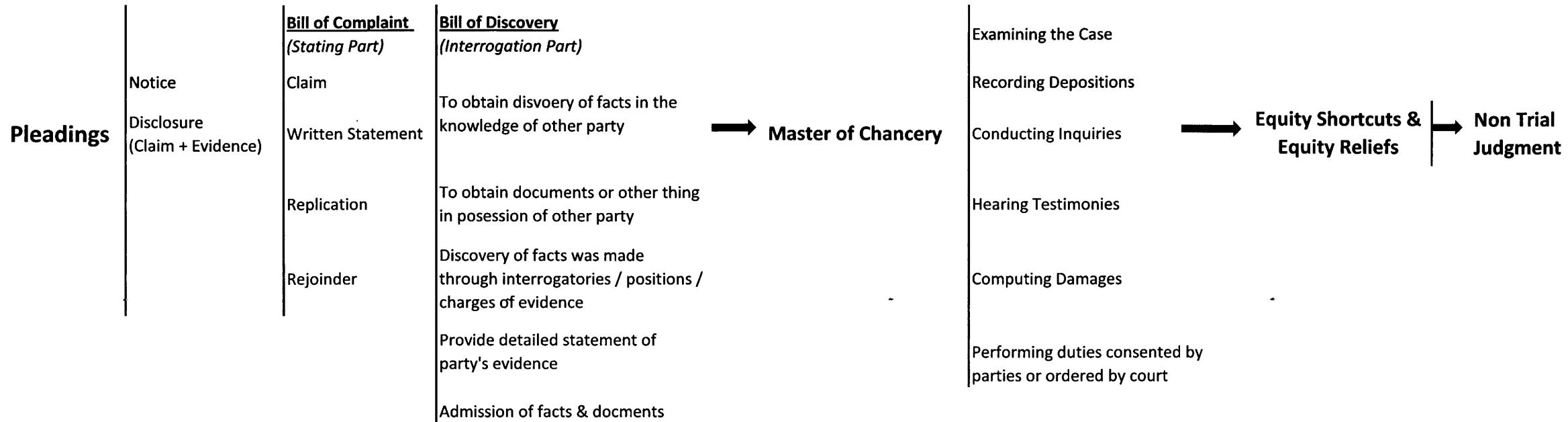
Pleadings	Notice	Claim	Jury Trial	Parties taken by surprise through production of evidence
	Disclosure (Claim)	Written Reply		Pre-trial procedure confined to pleading
		Replication		No discovery/investigation
		Rejoinder		Court took no responsibility of investigation
		Single Issue Pleading		Investigation left to lawyers and litigants
				Investigation by mean of witness testimony occurred at trial

III (Pre Fusion Era)

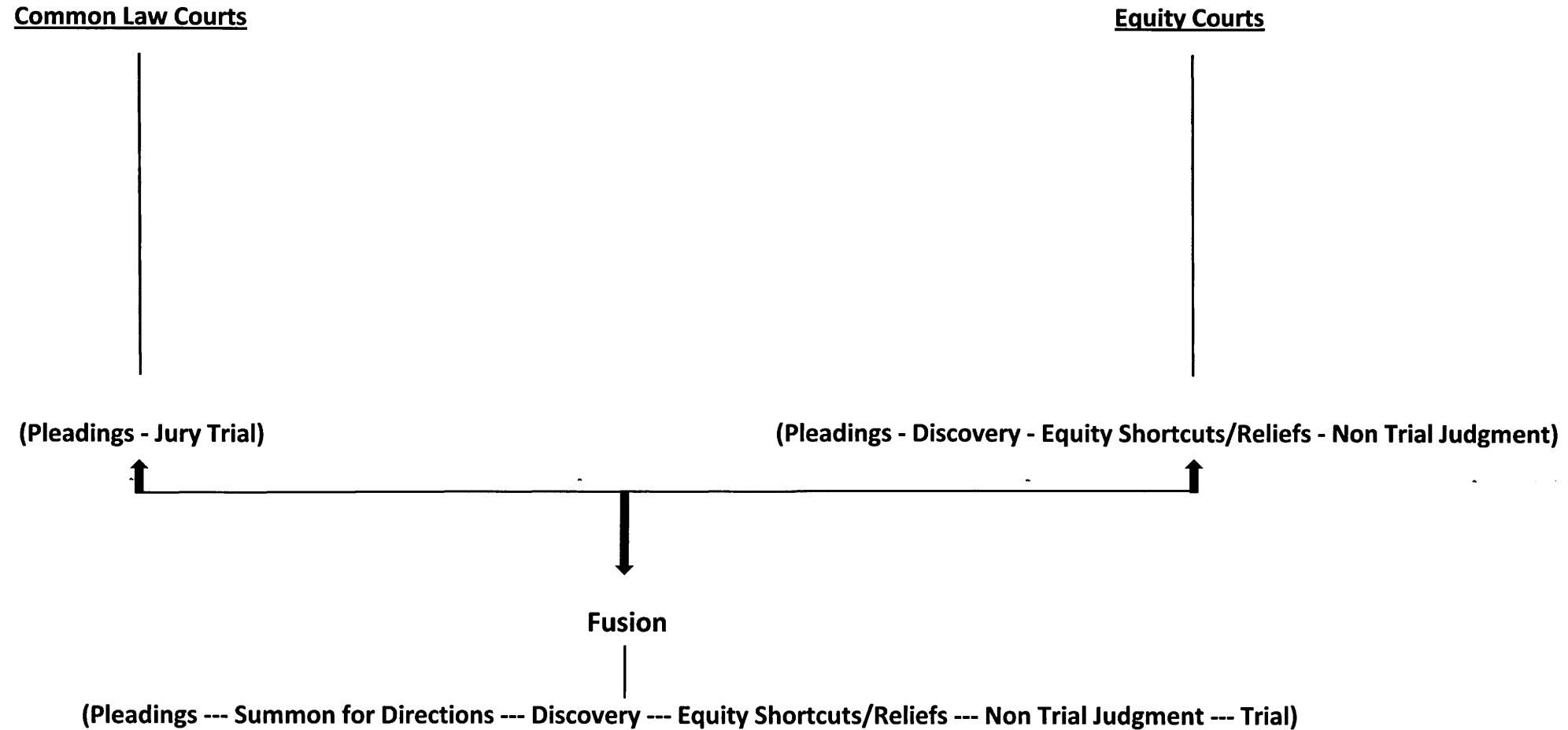
Pleadings	Notice	Claim	Bill of Particulars	Bill of Particulars did not improve investigation deficit.
	Disclosure (Claim)	Written Reply		Concentration led to surprise.
		Replication		Jury corrupt and inefficient
		Rejoinder		No equity shortcuts.
		Single Issue Pleading		No procedural flexibility.
				No accommodation.

ANCESTRY AND MECHANICS OF CIVIL PROCEDURES IN EQUITY / CHANCERY COURTS

(PLEADINGS - DISCOVERY - EQUITY SHORTCUTS - NON TRIAL JUDGMENT)



MECHANICS OF JUDICATURE ACT, 1875 (ENGLAND & WALES) : FUSION OF LAW AND EQUITY COURTS



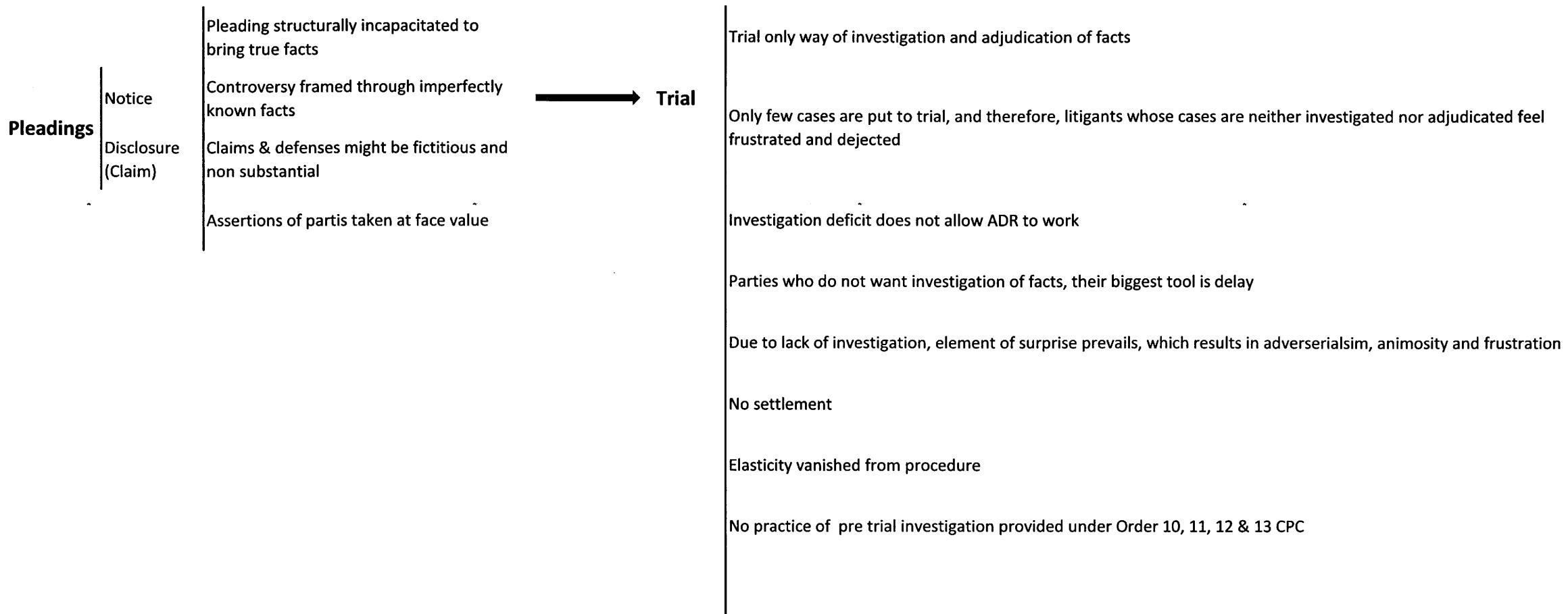
ANCESTRY AND MECHANICS OF CIVIL PROCEDURE CODE, 1908

4

(Pleading-Discovery-Summary Judgment-Trial)	(Pleading-Discovery-Summary Judgment-Trial)	(Pleading-Discovery-Summary Judgment-Trial)
Code of Civil Procedure, 1858 (388 Section) <p>PLEADINGS.</p> <p>a) Pleadings (Section 1 to 124)</p> <p>DISCOVERY <i>(Litigant Conducted Investigation).</i></p> <p>b) Oral examination of the parties: Interrogation-in-person; Deposition. (125 to 127)</p> <p>c) Filing of proposed exhibits by the contesting parties, and their inspection by the court (128 & 129)</p> <p>d) Framing of Issues (139 to 141)</p> <p>EQUITY SHORTCUTS</p> <p>e) Summary Judgment (142 to 145)</p> <p>TRIAL</p> <p>f) Trial (149 to 198).</p>	Code of Civil Procedure, 1877 (653 Section) <p>PLEADINGS.</p> <p>a) Pleadings. (Section 1-116)</p> <p>DISCOVERY <i>(Litigant Conducted Investigation).</i></p> <p>b) Oral examination of the parties: Interrogation-in-person; Deposition (117 to 120)</p> <p>c) Discovery of facts through interrogatories (121 to 127)</p> <p>d) Discovery of documents (128 to 130)</p> <p>e) Inspection of documents (130 to 135)</p> <p>f) Admission of facts.</p> <p>g) Admission of documents.</p> <p>h) Tendering of proposed exhibits, and their inspection by the court (138 to 143)</p> <p>i) Framing of issues on the basis of pleadings, depositions and documents (146 to 150)</p> <p>EQUITY SHORTCUTS</p> <p>j) Summary Judgment (152 to 155)</p> <p>TRIAL</p> <p>k) Trial. Chapter XII to XVII)</p>	Code of Civil Procedure, 1908 <p>PLEADINGS.</p> <p>a) Pleadings (Order 1 to 9)</p> <p>DISCOVERY <i>(Litigant Conducted Investigation).</i></p> <p>b) Oral examination of the parties: Interrogation-in-person; Deposition (Order 10)</p> <p>c) Discovery of facts through Interrogatories (Order 11, Rule 1 to 11)</p> <p>d) Discovery of documents (Order 11, Rule 12 to 14).</p> <p>e) Inspection of documents (Order 11, Rule 15 to 19)</p> <p>f) Admission of facts (Order 12, Rule 4)</p> <p>g) Admission of documents (Order 12, Rule 2)</p> <p>h) Tendering of proposed exhibits and their inspection by the court (Order 13)</p> <p>i) Framing of issues on the basis of pleadings, depositions and documents (Order 14)</p> <p>EQUITY SHORTCUTS</p> <p>j) Summary Judgment (Order 15, Rule-3)</p> <ul style="list-style-type: none"> • Judgment on admission (Order-12, Rule-6) • When defendant appears (Order-9, Rule-8) • Parties not at issue (Order-15, Rule-1) • When plaint does not disclose cause of action (Order-7, Rule-11) <p>TRIAL</p> <p>k) Trial (Order 16 to 20).</p>

STRUCTURAL PROCEDURAL PARADIGM OF CIVIL PROCEDURE, PAKISTAN

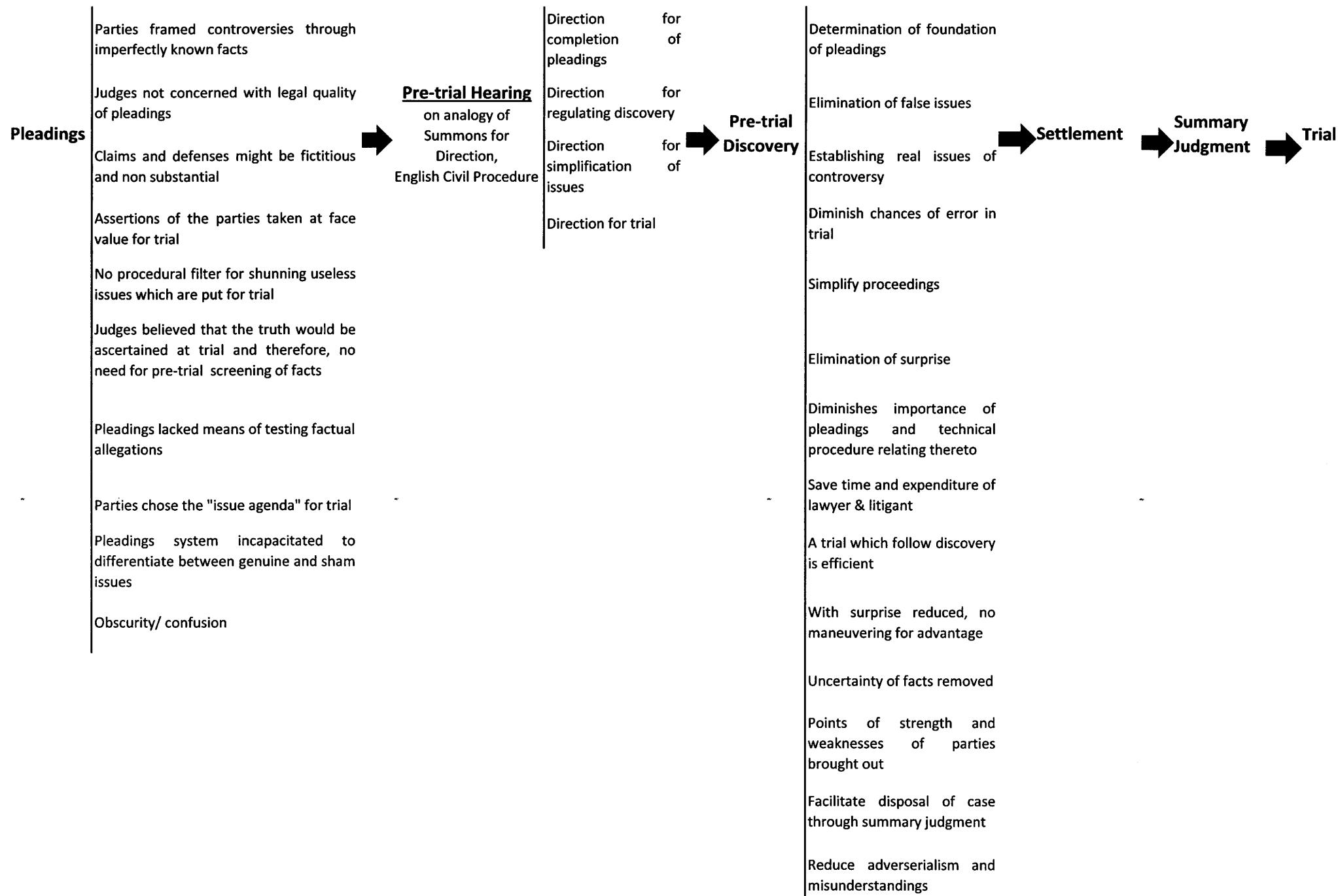
(Pleadings Centric & Trial Based)



STRUCTURAL PROCEDURAL PARADIGM OF CIVIL PROCEDURE, INDIA

(Pleadings --- Differential Management --- ADR Centric & Trial Based)

THEORETICAL CONCEPTUAL FRAMEWORK OF FEDERAL RULES OF CIVIL PROCEDURE PROPOSED BY EDSON SUNDERLAND & CHARLES E. CLARK



STRUCTURAL PROCEDURAL PARADIGM OF CIVIL PROCEDURE IN FEDERAL COURTS, U.S.A.

(Case Management - Discovery - ADR - Summary Judgment - Centric & Non Trial Based)

Pleadings Rule 16 / Case Management & Scheduling Conference  Notice →	Expediting disposal of actions	Improves judicial oversight to prevent abuse and delay		Investigation of fact	Court mediation	annexed
	Establishing early and continuing control of the judge over the case	Establishes continuous and individual case Management System	Depositions	Parties understand each other positions	Court Arbitration	annexed
	Discouraging wasteful pre-trial activities.	Compensates weakening role of pleadings	Discovery of facts and documents	Element of surprise reduced	Early neutral evaluation	
	Improving quality of trial through thorough preparation	Case Management, scheduling and settlement exposes the judge to the merits of the case	Admission of facts and documents	Centrality of facts	ADR	
	Simplification of issues	Procedural empowerment enhances judicial authority of a judge	Expert evidence	Less Adversarialism	Summary Judgment	Special Master Rule-53
	Elimination of false claims and defenses	Strike a balance between due process and abuse of process through flexibility and management	Report of special master	More cooperation	Trial	Judicial Settlement conducted under Rule-16, FRCP
	Identification of witnesses and documents	Cases are settled under process of discovery & management		Parties know strength and weaknesses of each other case		
	Scheduling and Planning amendments in the suits	Provide chances to the parties to structure their case		More chances of settlement		
	Scheduling and planning motions	Judge decides the pace of a case as case manager		Disposal of case without resorting to trial		
	Scheduling and planning discovery	Aggressive case management diminishes incidence of trial				
	Scheduling and planning trial	Encourages exchange of information between parties				
	Facilitating Settlement	Reduce discretion, and increase flexibility and cooperation				

STRUCTURAL PROCEDURAL PARADIGM OF CIVIL PROCEDURE ENGLAND & WALES

(Pre-action Protocol – Discovery - Case Management - ADR - Summary Judgment Centric & Non Trial Based)

STRUCTURAL PROCEDURAL MATRIX OF CIVIL PROCEDURE CODES OF PAKISTAN, INDIA, USA AND UK

Civil Procedure Code, Pakistan	:	Pleading Centric & Trial Based
Civil Procedure Code, India	:	Pleadings - Differential Management - ADR Centric & Trial Based
Federal Rules of Civil Procedure, USA	:	Discovery-Case Management-ADR-Summary Judgment Centric & Non Trial Based
Civil Procedure Rules, England & Wales	:	Pre-action Protocol-Discovery- Case Management- ADR-Summary Judgment Centric & Non Trial Based