



# of Pakistan

# EXTRAORDINARY PUBLISHED BY AUTHORITY

ISLAMABAD, SATURDAY, DECEMBER 30, 2023

#### PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN
ISLAMABAD HIGH COURT, ISLAMABAD

#### NOTIFICATION

Islamabad, the 22nd December, 2023

S. R. O. 1890(I)/2023.—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 of the Islamabad High Court, on the recommendations of the Hon'ble Rule Committee of Islamabad High Court, has been pleased to make the following practice and procedure rules in the CPC to the extent of Islamabad Capital Territory for information of all persons likely to be

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Price: Rs. 40.00

affected thereby and notice is hereby given that the draft rules will be taken into consideration after a period of 30 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 Registrar, Islamabad High Court, Sector G-5/1, 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:

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### ORDER V, RULE 15 OF CPC, 1908

EXISTING RULE	PROPOSED AMENDMENT
15. Where service may be on male member of defendant's family. Where in any suit the defendant cannot be found and has no agent empowered to accept service of the summons on his behalf, service may be made on any adult male member of the family of the defendant who is residing with him.	15. Where service may be on any adult member of defendant's family. Where in any suit the defendant cannot be found and has no agent empowered to accept service of the summons on his behalf, service may be made on any adult member of the family of the defendant who is residing with him.
Explanation A servant is not a member of the family within the meaning of this rule.	Explanation. A servant is not a member of the family within the meaning of this rule.

# Order IX-A CPC. Case Management and Scheduling Conference1

- Case management and scheduling conference. (1) The Court, after completion
  of pleadings, may call for case management and scheduling conference and pass appropriate order for
  the following purposes, namely:
  - expeditious disposal of the cases;<sup>2</sup>
  - establishing an early and continuing control of the court over the case, so that it cannot be delayed because of lack of management;<sup>3</sup>
  - (iii) discouraging wasteful pre-trial activities;4
  - (iv) improving the quality of litigation through more thorough preparation of the case by the parties and their counsel,<sup>3</sup>
  - encouraging the parties to cooperate with each other in conducting the court proceedings;<sup>4</sup>
  - (vi) fixing time schedules or otherwise controlling progress of the case;
  - (vii) facilitating settlements and encouraging parties to use alternate dispute resolution's (ADR) procedures in accordance with the Alternative Dispute Resolution Act, 2017 (XX of 2017) or such other law for the time being in force,<sup>4</sup>
  - (viii) giving directions to ensure that a case proceeds quickly and efficiently;

Rule 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 classes. 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 under 1.4(1) of CPR to establish a "Managed System of Dispute Resolution"

<sup>2</sup> Rule 16(a)(1) Federal Rules of Civil Procedure, USA.

<sup>3</sup> Rule 16(a)(2) Federal Rules of Civil Procedure, USA.

<sup>4</sup> Rule 16(a)(3) Federal Rules of Civil Procedure, USA.

<sup>5</sup> Rule 16(a)(4) Federal Rules of Civil Procedure, USA.

<sup>\*</sup> 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.

<sup>&</sup>lt;sup>7</sup> 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. Lord Woolf 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.

<sup>•</sup> Rule 2(e) Civil Procedure Rules, England and Wales, 1998. Further see Rule 16(a)(5) Federal Rules of Civil Procedures, USA.

Rule 2(1) Civil Procedure Rules, England and Wales 1998. Active Case Management includes the court giving directions to ensure that 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 counsel in the case management and scheduling conference through telephone, email, v deo conferencing or other technologies:<sup>11</sup>

Provided that in case the Court does not call for such conference, it shall be bound to record reasons for not doing so. No party or its coursel can opt to exclude itself from a case management and scheduling conference fixed by the Court.

- (2) Before conducting any case management and scheduling conference under sub-rule (1) and not later than seven days after completion of pleadings, the Court shall require parties to the suit to file their respective case management statements on the format as set out in Form No.13 in Appendix C of the First 5 chedule to the Code and share a copy of the same with the opposite party.
- Manageme t and disposal of miscellaneous applications<sup>13</sup>. (1) The Court, subject to case manageme t statements filed by the parties, shall manage the miscellaneous applications arising out of he suit, in the following manner, namely:-
  - (a) the court, after consultation with the parties or their counsel, shall fix the following three dates, namely: -

#### 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"

<sup>10</sup> Rule 2(1) Civil Procedure Rules, England and Wales, 1998. According to this module, the parties to a case and the judges should not deal with several aspects of a case on "successive occasions", rather, they should 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 and at the same time.

<sup>11</sup> 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.

<sup>&</sup>lt;sup>12</sup> 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:

- (a) the court, after consultation with the parties or their counsel, shall fix the following three dates, namely:—
  - a date by which the parties shall file application mentioned in their case management statements and shall provide copies of such application to the other parties, as the case may be;
  - (ii) a date by which the parties shall file written replies to such application, and shall give copies of written replies to the opposite parties; and
  - (iii) a date by which the applications shall be disposed of.
- (b) no opportunity shall be provided to any party for filing any such applications, if the party opts not to file such applications, or reply thereto, after exhausting the opportunity provided under clause (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, subject to the provisions of clause (a):

Provided that these clauses shall not bar a party to file an application for amendment of pleadings, if in the course of trial or other proceedings it becomes imperative to amend the suit for determining real question in controversy between the parties as mandated under Order VI, rule 17.

- 3. Discovery management. The Court, in accordance with the nature of the litigation and case management statements filed by the parties, shall fix a time schedule for employing all or any modes as specified in Orders X, XI, XII and XIII of the Code for effecting required discovery.
- 4. Trial management.<sup>13</sup> If the case is not summarily decided under Order XV-A of the Code and is fixed for trial, then the Court in consultation with the parties or their counsel, as the case may be, keeping in view the case management statements filed by the parties, shall establish a time 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 format as set out in Forms 20 and 21 in Appendix B of the First Schedule to the Code;
  - (b) procuring certificates of readiness from the parties to produce their evidence in the Court, on the format as set out in Form 22 in Appendix B of the First Schedule to the Code;
  - recording of evidence, cross-examination including re-examination with the permission of the Court;
  - (d) filing of written arguments after closing of evidence (optional); and
  - (e) hearing of final arguments.

<sup>&</sup>lt;sup>13</sup> 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 XVI Rule 1 and the list of documentary evidence, which they intend to rely upon under Order XIII Rule 2 of Civil Procedure Code, 1908.

5. Penalty for default in case management.— If a party or its counsel fails to appear at a case management and scheduling conference, or fails to file its case management statement, 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 penalty under this Code, shall order the party to pay such cost in accordance with Order Lill of the Code, as is appropriate, unless such non-compliance was substantially justified or other circumstances made an award of cost unjust. If the non-attendance of a party or its counsel is justified, the Court may give a final adjournment, and may modify the schedule for the date fixed:

Provided that the Court is bound to record reasons in writing to justify such modification.

# APPENDIX C

# Form 13

	CASE MANAGEMENT	STATEME	NT (Or	der D	X-A)
	In the Court of:				
	Title of Suit			_	
	Sult Registration No				
	200		*		Plaintifff
	Party filing the Case M	ianagement S	tatement	_	Plaintiff(s)
					Defendant(s)
P	articulars of the Party (Name, Address, none Number, Mobile Number, Whatsapp umber, Email address)	- 8			
P	articulars of the Advocate (Name, Address, none Number, Mobile Number, Whatsapp umber, Email address)				
	I. PROCESS				
1	Date of Filling of civil Suit.	water to			
2	If the party is defendant, then the Date of statement	Filling writter	1		
3	Status of Service to the defendant(s) (to be the plaintiff only)	e answered by	7	117	
	a. Name of Defendant(s) who have been who have appeared in the Court	n served, and	ı		
	<ul> <li>Name of Defendant(s) who have been have not appeared in the Court, and wex-parte; and</li> </ul>				
	c. Name of Defendant(s) who have not (specify names and explain why not)	t been served	1		
	II. MISCELLENIOUS APPL	ICATION	IS		
4	Any other party, who is either necessary or party to the suit, and you intend to mapplication for its impleadment under Order 10 of the Code? (Specify name, and explain party is necessary or proper party to the suit	nove an er 1 Rule how the			
5	Do you intend to move an applicate amendment in the pleadings under Order 6 of the Code?  (If the answer is yes, then specify the planendments, and reasons for amendment)	ion for Rule 17			
6	Whether you intend to move an applica return of plaint under Order VII Rule 10				

(If the answer is yes, then, give brief description of your assertion)	
Whether you intend to move an application for rejection of plaint on any of the grounds enumerated in Order VII Rule 11 CPC? (If the answer is yes, then, give brief description of your assertion)	

# III. DISCOVERY

8	Are you prepared to be examined by the Court	
-	under Order 10 Rule 1 of the Code?	
9	Do you intend to deliver interrogatories in writing for examination of the opposite-party or any one or more of such parties under Order 11 Rule 1 of the code?  (If the answer is yes, the party shall annex the interrogatories in Form No. 2 of Appendix C, with such variations as circumstances may require, and it shall have a note at the foot thereof stating which of such interrogatories each of such person is required to answer). Any answer in reply to such interrogatories shall be in the Form No. 3 of Appendix C of the First Schedule.	
10		
11	Whether you intend to give notice, by pleadings, or otherwise in writing, that you admit the truth of the whole or any part of the case of the other party under Order 12 Rule 1 of the Code?  (If the answer is in yes, the party must give details of the admission)	
12	Whether you intend to call upon the other party to admit any document under Order 12 Rule 2 of the Code?  (If the answer is in positive, then the party shall annex herewith a Nolice to admit document in Form No. 9 in Appendix C of the First Schedule, with such variations as circumstances may require)	
13	Whether you intend to call upon the other party to admit, for the purpose of the suit only, any specific fact or facts under Order 12 Rule 4 of the Code? (If the answer is in positive, then the party shall annex herewith a Notice to admit facts in form No. 10 in Appendix C, with such variations as circumstances may require). Any admission to the facts pursuant to the Notice shall be given under	

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	Order 12 Rule 5 in the Form No. 11 in Appendix C of the First Schedule	
14	Whether you intend to call upon the other party to produce any document which is in his possession or power under Order 12 Rule 8 of the Code. (If the answer is in positive, then the party shall annex herewith a Notice to produce document in Form No. 12 in Appendix C, with such variations as circumstances may require)	
15	What is the documentary evidence which you intend to produce at the first hearing of the suit under Order 13 Rule 1 of the Code? (This documentary evidence is to be produced in accordance with the Form provided in Rule 2 & 3, Part G, Volume-I of the Lahore High Court Rules & Orders	

Signature:	
Name of the Party filing the	
Case Management Statement:	
Address:	

#### APPENDIX B

# FORM 20

(List of Witnesses whom the party proposes to call to give evidence under Order XVI Rule 1 of the Code of Civil Procedure, 1908)

In the Court of:	
Title of Suit:	
Suit Registration No.	_
Party filing the list of witnesses	Plaintiff(s)
	Defendant(s)
	. a i

S.No.	Name of Witness	Address Contact No.	Evidence of which Facts

SIGNATURE OF PARTY OR PLEADER PRODUCING THE LIST



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#### FORM 21

(List of witnesses whom the party proposes to call to produce documents under Order XVI Rule 1 of the Code of Civil Procedure, 1908)

In the Court of: -

Title of Suit:	
Suit Registration No.	
Party filing the list of witnesses	Plaintiff(s)
	Defendant(s)

S.No.	Name of Witness	Address Contact No.	Designation, if any	Document which the witness is called upon to produce	What the document is intended to prove
				TO NE DO	*

SIGNATURE OF PARTY OR PLEADER PRODUCING THE LIST

#### APPENDIX B

#### FORM 22

(Certificate of readiness of evidence under Order XVI Rule I of the Code of Civil Procedure, 1908)

In the Court of:	
Title of Suit	
Suit Registration No.	<del></del>
Party filing the Certificate of readiness	Plaintiff(s)
	Defendant(s)

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

- (a) The evidence which Plaintiff(s)/ Defendant(s) aspires to produce in the court, is ready to be produced according to the Schedule settled by the court.
- (b) There are no other witnesses to be produced in the court, other than those mentioned in Forms 20 & 21 of Appendix B of First Schedule of the Code.

SIGNATURE OF PARTY OR PLEADER PRODUCING THE CERTIFICATE

#### Order XV-A

#### Summary Judgment

- I. 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:
    - 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
    - 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 completion of pleadings.
- 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 fourteen 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 seven 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 three days before the summary judgment hearing.
- (3) Where the summary judgment hearing is fixed by the Court of 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 seven 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 three 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 granting costs, including, inter alia, attorney fees;
  - (b) dismiss the application along with granting costs, including, inter alia, attorney fees;
  - (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 Court orders otherwise to prevent injustice; or
  - (d) issue any other appropriate order with directions about the management of the case.

#### ORDER LIII

#### AWARD OF COSTS

- 1. Actual costs of litigation. (1) The parties shall file their respective actual costs of litigation statements in the Form No.1 of Appendix I in the First Schedule of the Code, between the date of closing submissions and the announcement of judgment.
  - (2) Subject to sub-rule (3), the Court shall award the actual costs of litigation claimed by the party for whom the judgment is rendered.
  - (3) The award of actual costs claimed by a party shall be subject to the reasonableness and proportionality of the costs claimed.
  - (4) A party may file objections to the actual costs of litigation statement filed by the other party, and the Court shall decide those objections summarily.
  - (5) A party shall be deemed to have claimed the default costs of litigation, specified in the schedule of default costs Form No.2 of the Appendix I in the First Schedule of the Code, if it does not file the actual costs of litigation statement, and the Court shall award the default costs accordingly.
  - (6) While assessing the Actual Cost of Litigation, a party to any civil proceedings, at the beginning of the proceedings, on proposed basis, may file a Proposed Cost of Litigation Statement in the court in the Form No.3 of the Appendix I in the First Schedule of the Code.
- 2. Discretionary costs of litigation (indemnity costs). The Court may also award additional costs on indemnity basis where, for reasons to be recorded, the Court finds a party's conduct contumacious, or finds the party's case false, vexatious or frivolous, or where a party has, despite the other party's consent, unreasonably refused to engage in mediation or conciliation.
- 3. Adjournment costs. (1) A party shall be liable to pay adjournment costs specified in the Schedule of Adjournment Costs, mentioned in the Form No.4 of the Appendix I of the First Schedule of the Code, to the other party, except where the adjournment is sought on account of unavoidable reasons beyond the reasonable control of the party seeking adjournment.
- (2) The order granting adjournment without costs shall record the reasons that prevailed with the Court to grant adjournment without costs.
  - 4. Recovery of costs. —(1) The costs awarded under rules 1 and 2 of this Order shall be recovered under section 36 read with Order 21 of the Code.
    - (2) The cost under rule 3 shall be paid in cash by the party liable to pay in the relevant head of accounts of the Court thereafter, to be reimbursed to the opposite party.
- 5. Assessment of costs by the Taxation Officer: In certain cases, where it becomes difficult to assess the actual cost of litigation, the Court may seek help of the taxation officer appointed by the High Court for assessment and determination of such costs.

# APPENDEX I

# FORM NO. 1

# **ACTUAL COST OF LITIGATION STATEMENT**

	Title of Suit:		
	Registration No.	•	
	Court:	1	
Party	filing the Statement  Plaintiff (s)/Petitions  Defendant (s)/Response		
Name	of Counsel/Advocate:		
Bar Re	egistration	3.0	
No			-
5r#	* Assessment of Cost(s) by the pany filling the Stationent	Cost(s)	Proof of payment(s).
01.	The fee charged by the counsel for the proceedings:  i. The fee paid on lump-sum basis; or  ii. The per-hearing fee charged by the counsel; or  iii. The hourly rate charged by the counsel and numbers of hours consumed in relation to the proceedings		
02.	The incidental expenses incurred in relation to the proceedings, including expenses incurred in copying of documents and filling of the memoranda and pleadings		
03.	The expenses incurred in procuring the report or testimony of any expert required for such proceedings		
04.	Expenses incurred in relation to production of witnesses and documentary evidence		
05.	Travel expenses incurred by the party to attend Court proceedings, whether by itself or its attorney		
06.	Fees paid for service of the notices		
07.	Cost incurred in acquiring copies of court orders and pleadings of other parties		
08.	Court fee		
09.	Stamp fee		
10.	Any other incidental expenses directly related to the proceedings before the Court		
	Total cost(s)		The state of
	Signature: Name of the Party filing the statement:		

Address:

# APPENDIX I FORM NO. 2

# SCHEDULE OF DEFAULT COSTS

Sr.#	Nature of Proceedings	Default Costs in Rs.
01.	Suit, appeal, revision, consumer complaint or proceedings under special statutes before the District Courts (including where the Civil Court or the District Court is acting as a tribunal under special statutes)	30,000/-
02	Appeal, revision, petition, proceedings under special statutes before the High Court	30,000/-

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# APPENDIX I

# FORM NO. 3

# PROPOSED COST OF LITIGATION STATEMENT

Title of Suit:		
Registration No	0	
Court:		
Party filing the Statement	Visite"	Plaintiff (s)/Petitioner(s)/Party-I:
	(D) (4)	Defendant (s)/Respondent (s)/Party-II:
Name of	•	
Counsel/Advocate;		
Bar Registration		
No	i i mil	

Sr.#	Assessment of Cost(s) by the party filling the Statement	Cost(s)
01.	The tentative lump-sum fee likely to be charged by the counsel for the proceedings	
02.	The tentative incidental expenses likely to be incurred in relation to the proceedings, including expenses likely to be incurred in copying of documents and filling of the memoranda and pleadings	
03.	The tentative expenses likely to be incurred in procuring the report or testimony of any expert, required for such proceedings	
04.	The tentative expenses likely to be incurred in relation to production of witnesses and documentary evidence	
05,	The tentative travel expenses likely to be incurred by the party to attend Court proceedings, whether by itself or its attorney	
06.	The tentative fees paid for service of the notices	
07.	The tentative cost likely to be incurred in acquiring copies of court orders and pleadings of other parties	
08.	The tentative Court fee	
09.	The tentative Stamp fee	
10.	The tentative assessment of any other incidental expenses directly related to the proceedings before the Court	
	Total cost(s)	

Signature:		
Name of the Party filing the statement:		
Address:		

# APPENDEX I FORM NO. 4

# SCHEDULE OF ADJOURNMENT COSTS

Sr.#	Numbers of Adjournments	Rs.
01.	First Adjournment	5,000/~
02.	Second Adjournment	10,000/-
03.	Third Adjournment	15,000/-

[F.No.91/Legis./IHC/573.]

SARDAR TAHIR SABIR Registrar.