

An Adaptive Framework for Electronic Litigation in Egypt

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ABSTRACT

Technology has a significant impact on the development of legal services. The judicial procedures system, which is constantly evolving to keep pace with the current changes, has shifted from the previous system in which procedures were traditionally performed to a computerized system, and continued to develop into the most efficient and effective electronic court system. Electronic litigation also provides speed accuracy in issuing judgments and ease of access to the lawsuit procedures with ease and ease, in addition to saving time in terms of movement, wages, and so on.

This paper deals with a proposal for the general framework of electronic litigation in Egypt, which clarifies the procedures for filing and adjudicating cases through the electronic litigation system. The study concluded that the electronic litigation system should be implemented with the extension of its scope of application to include all litigation procedures. In addition, this paper urges the need to organize these procedures legislatively in line with the general rules and principles of litigation, taking into account the special nature of electronic litigation means.

Keywords

Electronic Litigation; Electronic Court; Electronic Government, framework for electronic litigation.

1. INTRODUCTION

“Justice delay is a denial of justice” It is a legal principle that if justice is not provided in a timely manner to the victim or the aggrieved, it loses its relevance and violates basic rights as well as human rights. It is noticeable that many countries are turning to electronic judiciary as an alternative to traditional judiciary in many cases, especially commercial and administrative cases [21].

In light of the country’s adoption of the concept of e-government and the trend of many countries to electronic justice as an alternative to the traditional judiciary in many cases, especially commercial and administrative, and it means the use of communication and information technology to reach the optimal use of government resources as well as ensuring the provision of a distinguished government service to citizens, companies and investors to include the legal field in general and judicial work in particular [22].

Electronic litigation is defined as the process of electronically transferring documents to the court via e-mail, where these documents are examined by the competent employee and a decision is issued regarding their acceptance or rejection and a notification letter is sent to the court. The litigant shall notify him of these documents, and the case shall be decided upon,

and the judgment shall be issued electronically [1].

On the other hand, legislators define electronic litigation as: “obtaining forms of judicial protection, through the use of electronic means to assist the human factor, through technical procedures that ensure the achievement of the principles and guarantees of litigation, in light of the legislative protection of those procedures in accordance with the general rules and principles in the Pleading law, taking into account the special nature of electronic means [2].

2. RELATED WORK

In recent years, many experts and scholars in many countries have done a lot of research in the electronic litigation and its promotion. Most of the research dealt with the application of the electronic litigation system in particular country according to the societal problem facing the country in [1], [2], [21] and [22]. Especially with regard to the definition and concepts of electronic litigation.

In [3], [8], [9], [10], [11] and [12] The use of e-court is shown in the legal framework of the US and Malaysia.

In [4], [5], [6], [13], [4], [15], [16], [17], [18], [19], and [20] The use of e-court is shown in the legal framework of the United Arab Emirates, the Saudi, and the Jordanian.

3. AN ADAPTIVE ELECTRONIC LITIGATION FRAMEWORK

In light of the adoption by countries of the concept of e-government and the tendency to e-justice as an alternative to the traditional judiciary in many cases, especially commercial, administrative, civil and criminal cases, it means the use of communication and information technology and digital transformation to reach the optimal use of government resources as well as ensuring the provision of a distinguished government service to citizens, companies and investors to include the legal field in general and judicial work in particular. We will highlight some of those countries that have become pioneers in the electronic litigation system.

3.1 The Use of Electronic Court in the US Legal Framework

The online gateway of the United System for New York State Courts addresses an incorporated model for the electronic court framework, and incorporates all electronic suit methods, beginning from documenting the claim to the issuance of the decision, in any case the matter is recorded to bid through a similar online entry. Through the specialist's scrutiny of the electronic prosecution techniques through the electronic entry

of the New York State courts, and the quest for their benefits and the strategy for working with them [3].

We tracked down the accompanying:

- The entry upholds eleven dialects, which is a high component that makes it a worldwide court.
- New York State courts exemplify the ideal e-court, which is uncommon in the present reality.
- The entryway is furnished with data the executives' frameworks and specialized and specialized help upon demand, notwithstanding progressed electronic chronicling capacities.
- The framework incorporates an element to gauge the recipients' fulfillment with the administrations gave through the entryway.
- Through the framework, general conclusions are taken before any advancement of enactment identified with electronic prosecution, or the extent of electronic administrations is extended to incorporate explicit local area portions.
- The electronic court framework contains an extremely progressed internet searcher, to look for any case by reference number, public number, name or by watchwords.

3.2 The Use of Electronic Court in the United Arab Emirates Legal Framework

In [4], [13], [14] and [15] the United Arab Emirates has developed the electronic litigation system very quickly, as it topped the list of the most transparent Arab countries in the judicial system. It ranked first in the Arab world in the report of the International Justice Program on the rule of law, and thirteenth globally according to this global indicator. As of 2008, work began in the UAE Ministry of Justice on the electronic transformation project, which included converting manual work into automated processes in all courts, and completing and completing the electronic transformation project implemented in the Public Prosecution in 2006; Whereas, the Ministry of Justice has completed the electronic work of all its services provided to the public, in accordance with the electronic transformation program, which aims to:

- Electronic registration of court cases.
- Electronic archiving of cases automatically with the start of the application of the case registration program in courts.
- Created a special program for the electronic library to provide all the rulings of the Federal Supreme Court, and the fatwas of the Fatwa, Legislation on its website.

The Ministry of Justice has made great strides in the electronic transformation of the case management system, as the Mohammed bin Rashid Center for Government Innovation in the Emirate of Dubai is one of the most important research centers that support and stimulate the culture of innovation in the UAE government sector. The center has introduced a smart litigation program, where government innovation experts developed a litigation project an innovative smart, based on enabling the parties to the litigation process to conduct an electronic direct trial in two or more directions,

through a program or a smart phone application, between the judge in the courtroom and the plaintiff.

3.3 The Use of Electronic Court in the Saudi Legal Framework

In [16], [17], [18], [19] and [20] the Kingdom of Saudi Arabia has significantly developed in the judicial facility and the electronic litigation system, as King Abdullah bin Abdulaziz, may God have mercy on him, issued his supervisor order approving the minutes of the committee, the statute of the Royal Court No. 4/28 dated 2/6/1428 AH to develop the judicial facility, where the Ministry By building its own information center using cloud computing technology, and moving all operating systems and services to a virtual (virtual) environment. This technology allows to save resources, get the system back up and running faster, and ensure that firewalls are available to the center. Information provides a high degree of security and maintains business continuity. It also re-engineers procedures and then completely transforms them into electronic processes that operate within integrated electronic systems to provide the following electronic litigation services:

- The ministry has provided all judges with access to court systems, viewing and dealing with cases remotely, via the Internet at any time, and the user's identity is determined by sending short text messages to the user's mobile, in addition to entering it Password.
- Group video calling service application.
- Launching the Ministry's external portal (the external portal), with a set of electronic services that serve the Ministry's employees and auditors, where the beneficiary can inquire about: authorized persons, lawyers, claims sheet, forms, final courts.
- The work of an internal portal that includes a set of electronic services that serve the Ministry's employees.
- Remote litigation service for the prisoner .
- Remote commission service for another judicial department to conduct one of the lawsuit procedures: such as hearing the testimony, interrogating the opponent, taking an oath, or examining the disputed. Via videoconference via videoconference using "video conference" software and under judicial supervision.
- Translation service.
- The ministry has created an application for smart phone .
- Self-service screens (KIOSK), where the beneficiary can easily choose the required service.
- Text message service (SMS).

3.4 The Use of Electronic Court in the Jordanian Legal Framework

In [5], and [6] the Jordanian Ministry of Justice focused on providing an integrated electronic litigation system, as it established a website for the electronic judicial service, through which the following electronic services can be

provided.

- Inquiry about all transactions, information related to cases brought before courts in Jordan of all kinds and degrees, and the schedule of sessions according to the specified date, which allowed the parties to the case and their agents to obtain the required information in the shortest possible time and without going to the courtroom.
- Fee calculator service, which is related to calculating the fees for all cases in addition to the execution fees.
- This comes in implementation of Article of the System of Using Electronic Means in Civil Judicial Procedures, which states that “each lawyer has an electronic account on his approved electronic portal for the purposes of registering judicial and executive cases, application and filing regulations, and a list of evidence and all judicial and executive correspondence and papers”.

It can also be said that the website of the Jordanian Ministry of Justice offers a semi-comprehensive electronic litigation system, through inquiries from the public and lawyers, where citizens, companies, institutions and lawyers can know many details about their requests and claims by name, national number, date of the next session, the last session, reasons for postponing the next session, in addition to a classification Case.

3.5 The Use of Electronic Court in the France Legal Framework

France began work on establishing electronic litigation in mid-2007, when an agreement was concluded between the Ministry of Justice and the National Council of the Bar on electronic communications between courts and lawyers, and a communication network was established between the two parties, according to which courts and judicial councils were provided with a scanning and digitizing device. To enable the lawyer to view the file, follow up the procedures, send and receive electronic messages related to documents and procedures, and write the seizures without going to the court building. Looking at the applications of the electronic administrative judiciary in France, we find that it has gone through the following stages [7].

- Work began in France in 1999 on the implementation of electronic administrative litigation, through the launch of a project related to special cases, which is presented to the French Council of State, known as the (Mantil) system.
- The e-mail program was launched in 1999 to replace the Al-Mantal system, so that through an identification number and case file number provided to them by e-mail, the parties to the lawsuit can monitor the status of their cases at all stages of the case.

France has witnessed a tremendous development in the use of information and communication technology in the scope of electronic litigation, which came after the launch of the e-mail program project and the project to test remote procedures. In it, he stressed the importance of moving towards the

immateriality of judicial procedures, given the importance of using technology for the parties to the case, and for developing the work of the courts.

3.6 The Use of Electronic Court in the Malaysia Legal Framework

Malaysia is one of the countries that has explored the concept of electronic litigation to speed up the litigation process, especially in personal status cases, and the E-Shariah project is one of the seven pilot projects in Malaysia's electronic Government application. The project, worth RM39 million, began in July 2002 and was completed in September 2005. E-Shariah is a web-based communication framework for Muslims [8] and [9].

1. Shariah Court Case Management System (SPKMS).
2. Shariah Lawyers Management System.
3. Office Automation.
4. Library Management System.
5. E-Shariah Portal – contains a lot of information online, online services, forms downloading etc.

Online administrations incorporate common cases pre-enlistment, case status checking, one-of-a-kind record, downloading structures, looking for Syarie's lawyer, Syarie's lawyer data, a compromise administration and criminological lawful references. Guidelines are at present being refreshed from the primary version of e-Sharia to the issuance of Sharia [9], [10], [11] and [12].

4. AN ADAPTIVE ELECTRONIC LITIGATION FRAMEWORK IN EGYPT

It is not possible to deny the tremendous technical development in the means of communication. The information and communications revolution has exceeded all perceptions, as this revolution resulted in many applications that greatly affected aspects of economic and social activity and were used in many facilities and the emergence of what is known as electronic markets, electronic government and pharmacy Electronic litigation is one of these applications, and the use of technical means is necessary in view of the many and multiple advantages that these means offer, such as saving time, rationalizing expenses, maintaining confidentiality and other advantages. Ordinary litigation procedures lead to a slowdown in the litigation process and a backlog of cases before the courts.

The use of electronic litigation in the e-government system is one of the most important applications that will achieve the public interest, and by achieving justice and security in society, nations will rise, and the economy will flourish and be a fertile environment for investment and economic growth.

The judiciary, like other public utilities, is obliged to adapt and keep pace with modern technological developments, as it cannot adopt the means and methods adopted by the traditional administration, which led to the slowness and complexity of procedures, as the traditional judiciary cannot adjudicate modern transactions such as electronic commerce if it is not Rapid developments are developing in other sectors, whether in the public or private sectors.

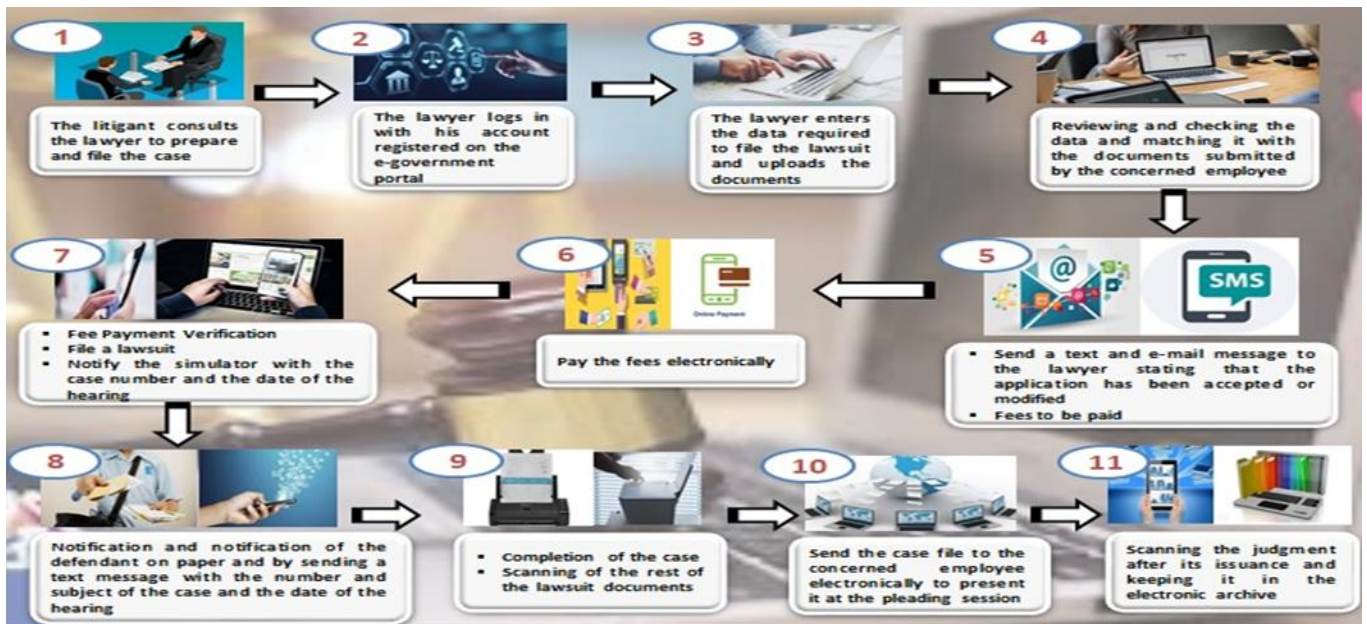


Figure 1. An Adaptive Framework for Electronic Litigation in Egypt

Electronic litigation is an information system within the e-government system, whereby all litigation procedures are applied through the electronic court by computers connected to the Internet and via e-mail for the purpose of expediting the settlement of cases and facilitating their procedures for litigants. The researcher will present the general framework of electronic litigation in Egypt.

- Where the beginning is for the lawyer to register his personal data on the electronic litigation system located within the services of the digital government portal, in order to benefit from all the services provided within the system from filing lawsuits, inquiring and following up on the progress of the case, decisions, judgments and many other services.
- The lawsuit is filed electronically, where the lawyer enters all the data and uploads the required documents electronically.
- Then the employee in charge reviews the data, checks the documents and matches them with the subject.
- And sending a text and electronic message to the lawyer stating the acceptance, rejection or modification of the application. If the application is accepted, the fees to be paid will be sent.
- Fees are paid electronically through the various electronic payment services.
- Where the competent employee verifies that the fees have been paid, then he files the case and notifies the lawyer of the case number and the date of the hearing.
- The defendant is also notified on paper by the bailiffs department and by sending a text message that includes the case number, its subject and the date of the hearing.
- Completing the lawsuit and scanning the rest of the submitted documents and attachments.

- Sending the case file electronically to the concerned employee for presentation in the escort session.
- Finally, after the pleading session is completed and the judgment is issued, the judgment is scanned and preserved in the electronic archive for the possibility of retrieval and viewing at any time.

4.1 Stages of Electronic Litigation Framework in Egypt

The basic stages that electronic litigation goes through the general framework of electronic litigation in the Egyptian courts, starting from submitting the request by the lawyer or litigant through the electronic portal of the Ministry of Justice up to the issuance of the judgment, the lawsuit, its preservation and the termination of its procedures. The researcher clarifies through Figure 1 that the general framework for electronic litigation is based on three basic stages :

- First stage: Before filing a lawsuit.
- Second stage: during the consideration of the case.
- Third stage: after the issuance of the court ruling.

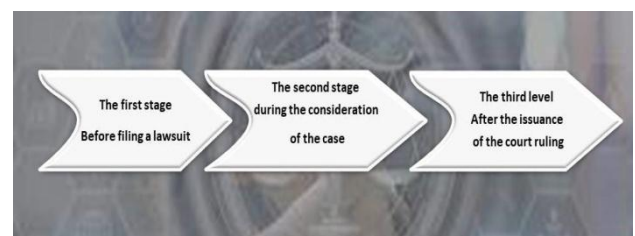


Figure 2. Stages of Electronic Litigation Framework

4.1.1 First Stage: Before Filing a Lawsuit

The steps taken in submitting applications and before filing lawsuits electronically through the services of the Ministry of Justice for electronic litigation.

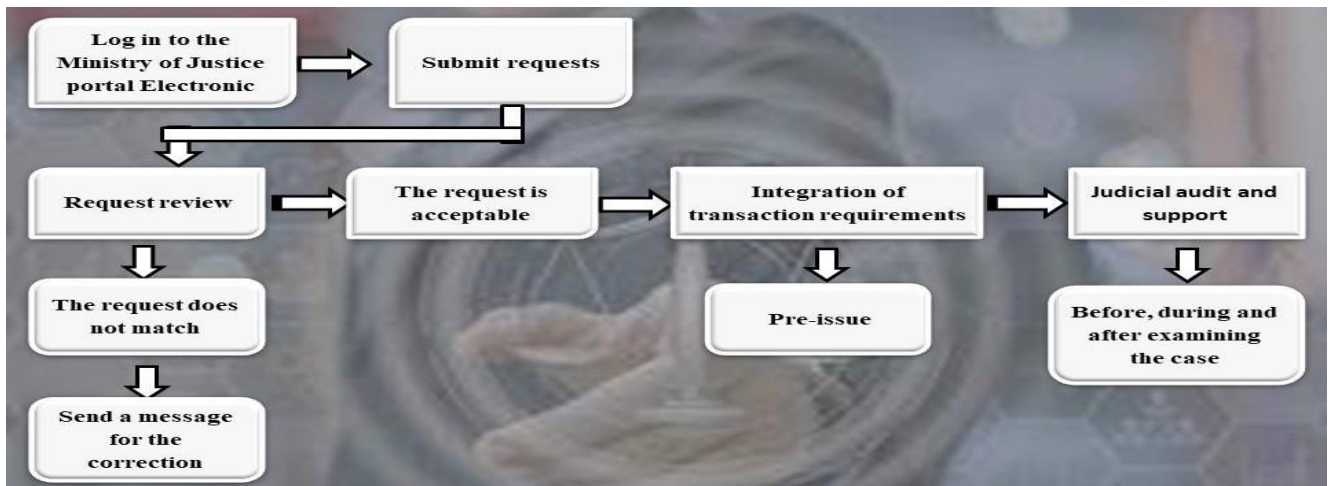


Figure 3. First Stage: Before Filing a Lawsuit.

Before starting any procedures and in order to benefit from the services of electronic litigation, the lawyer must register the subscription on the site and complete all the data required from it, and a confirmation SMS will be sent on the lawyer's Figure 3. Shows the steps that a lawyer takes to request a service or file a civil lawsuit electronically:

- Where first the lawyer enters the digital portal of Egypt and chooses the services of the Ministry of Justice and logs in, and in the event that he is not aware of the actual steps, watch the instructional videos of the services provided.
- The lawyer enters the required data correctly and sends it, and documents and differentials can be uploaded electronically.
- The concerned employee reviews and checks the data and matches it with the attachments, after which a message is sent to the lawyer's mobile phone stating the acceptance or modification.
- In the event of acceptance, the lawsuit will be filed,

personal mobile phone through which the registration will be activated and after that the lawyer can benefit from all electronic litigation services.

and a SMS will be sent to the lawyer on the lawyer's mobile phone with the case number and the date of the session, and the original attachments are asked to file the case as we will explain in Figure 9 .

- A SMS is also sent to the defendant on the mobile phone containing the case number, the date of the hearing, and the necessity for him or his agent to personally attend to receive a copy of the lawsuit petition.
- In the event of non-compliance or modification, a SMS will also be sent to the lawyer's mobile phone with the data to be modified.

4.1.2 Second Stage: During The Consideration Of The Case

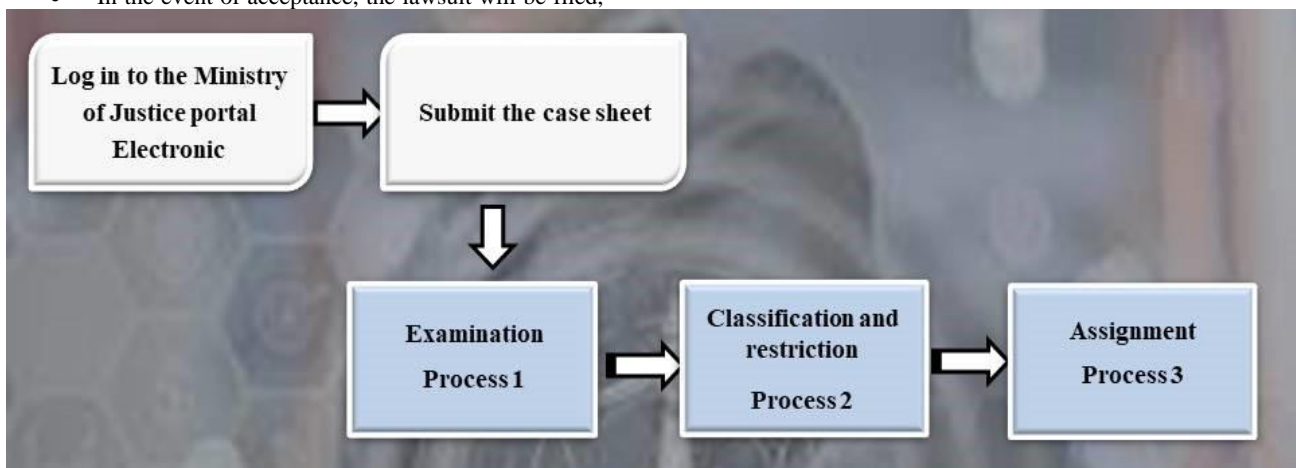


Figure 4. Second Stage: During the Consideration of the Case.

In Figure 4, the stages that take place after accepting the application submitted by the lawyer and starting the lawsuit are presented, which are three stages:

- The Examination Stage.
- Classification and Restriction Stage.
- The Assignment Stage.

Each stage will be explained separately in the following:

4.1.2.1 The Examination Stage

The examination stage is the first stage after submitting the application electronically, and it is a very important stage, as it entails all the next stages until the case enters the trial

session, and the competent court employee does the following:

- Verifying the personal evidence of the defendant and the defendant.
- Review the integrity of the defendant's data from the address and the mobile phone number.
- Verify the capacity of the plaintiff in the lawsuit.

- Ensure the safety of the specific jurisdiction.
- Review the locational jurisdiction.
- Examination and ensure that there are no requests that have no link between them and the case sheet.
- Verify the validity of the agency and its coverage of the case's content.

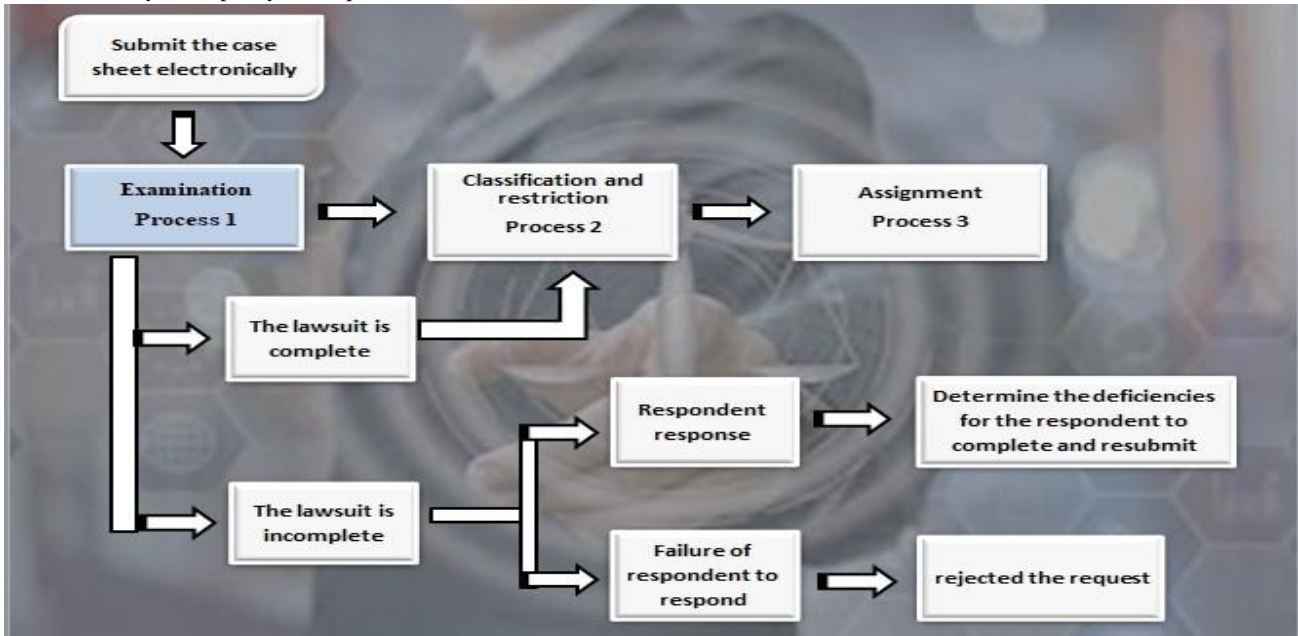


Figure 5. The Examination Stage.

4.1.2.2 Classification and Restriction Stage

Classification and this is the stage that follows the examination stage. The general framework of a proposal for electronic litigation, where the competent court employee classifies the cases after making sure that the examination is completed into cases (Urgent , normal).

Then, the lawsuit is classified according to the table within the competent court, and the researcher focuses his research on civil courts, so we can mention the tables for civil courts, for example, but not limited to.

- The District Civil Court includes a schedule (validity of signature, civil, urgent civil, rents).

- The civil plenary court includes the tables (total civil, urgent general civil, appellant civil, college rentals, government).

And after the completion of classifying the lawsuit according to the schedule, it is entered and a SMS is sent on the mobile phone to the applicant and the defendant to announce the number of the case, the date of the session, and the necessity for him or his agent to personally attend to receive a copy of the lawsuit petition and document this as an announcement to the defendant.

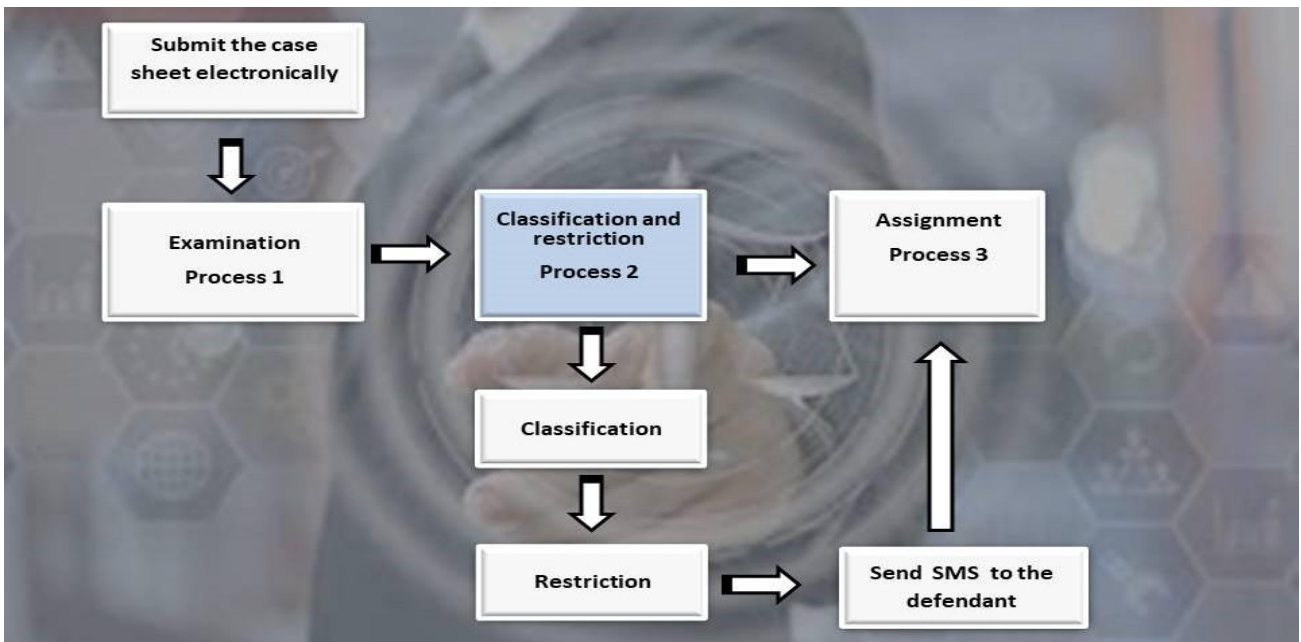


Figure 6. Classification and restriction stage.

4.1.2.3 The Assignment Stage

The role of the referral stage is centered on the cases subject to reconciliation before it is considered in the sessions, and that is after the case is registered electronically and the referral stage is the third stage in the proposal of the general framework of electronic litigation.

The assignment stage is represented in the following cases:

- The first case is that the case is not subject to reconciliation, and the competent court employee sends it to the stage of writing the case to enter it in the judgment session after completing all the documents.

- In the second case, if the case is subject to reconciliation and the litigants do not wish, the reconciliation will be sent by the competent court employee to the stage of writing the case to enter it in the judgment session after completing all the documents.
- The third case, the opponents 'consent to conciliation, the case is referred to the Dispute Resolution Office to complete and document the reconciliation and file the case.

We can say that the offices for resolving disputes are limited to personal status courts, administrative courts, and State Council courts.

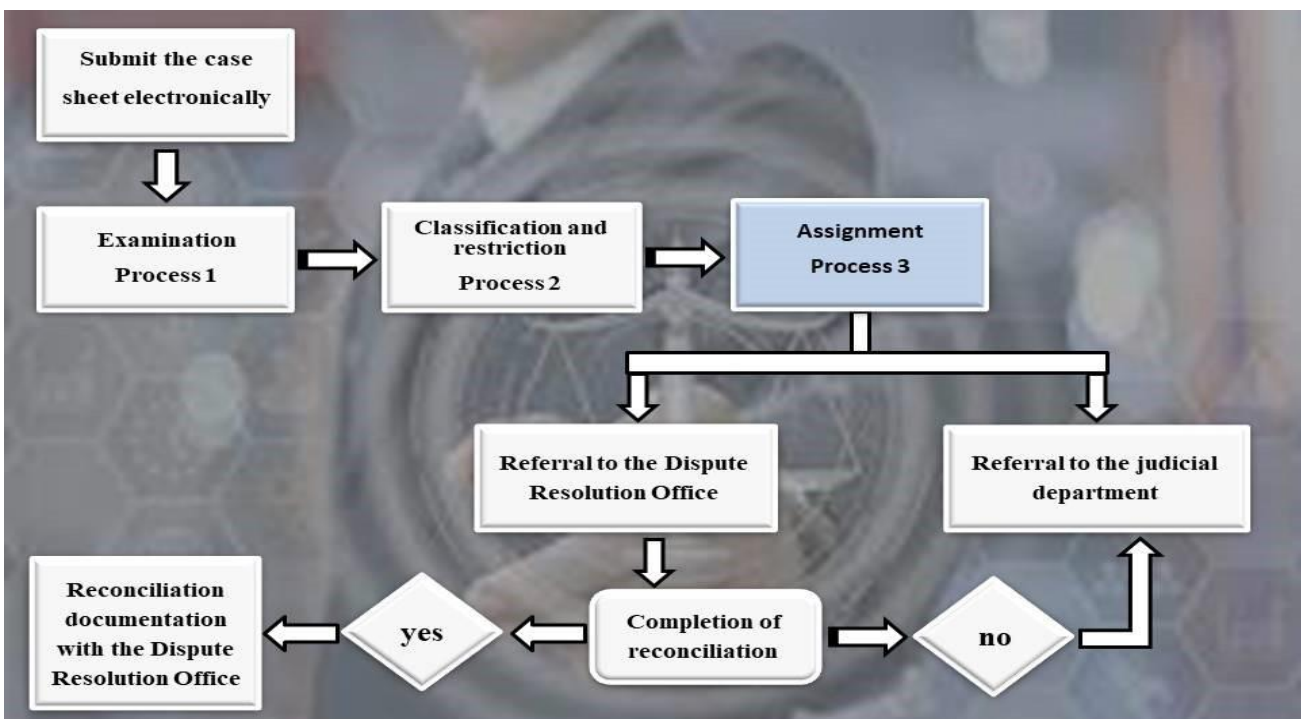


Figure 7. The assignment stage

4.1.3 Third Stage: After the Issuance of the Court Ruling

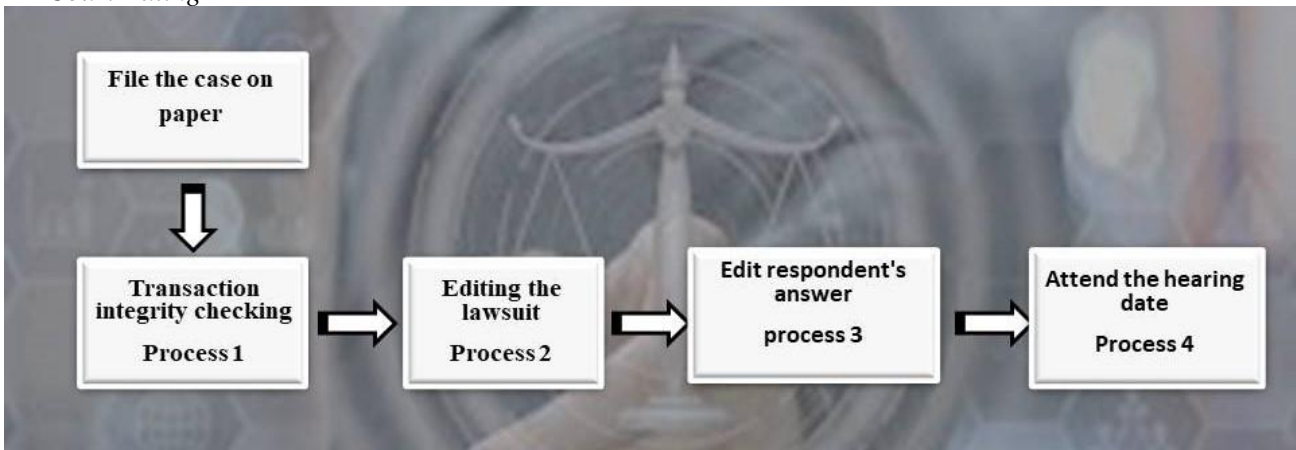


Figure 8. Third Stage: After the Issuance of the Court Ruling.

After completing the basic stage of electronic litigation, the researcher will present the stages that take place on the case file on paper for submission by the judge at the trial session. And the researcher identified it in the following four stages:

- Transaction integrity checking.
- Editing the lawsuit.

- Edit respondent's answer.
- Attend the hearing date.

The following is an explanation and clarification of the stages:

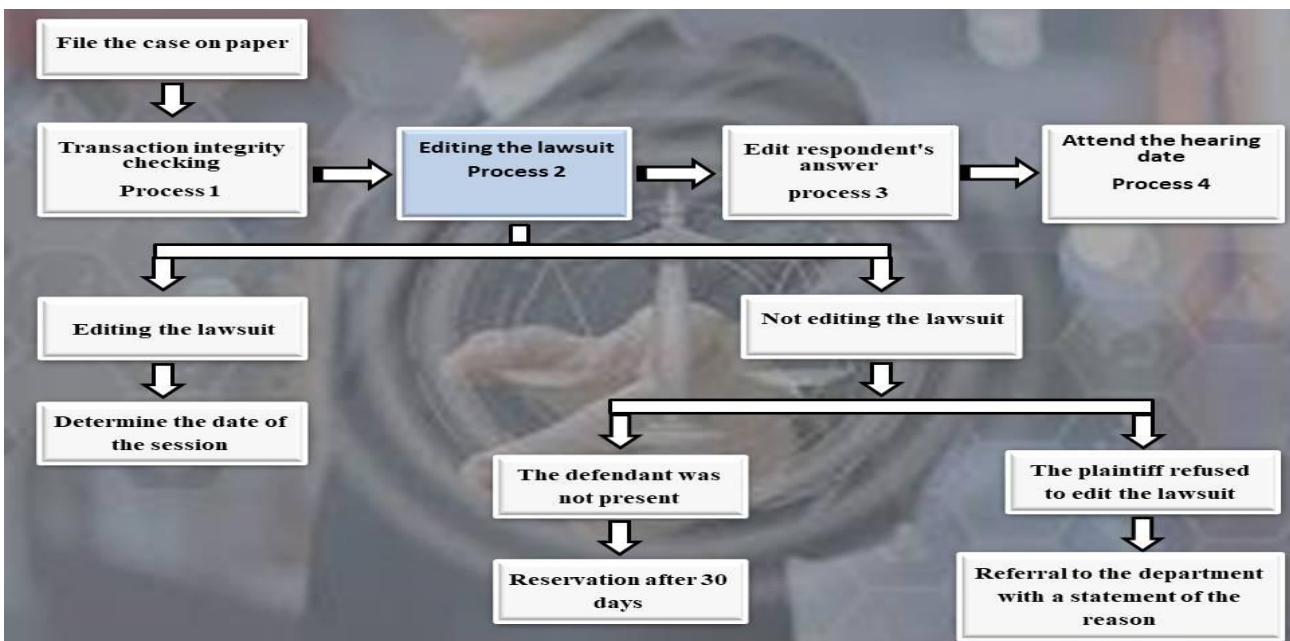


Figure 9. The stages that take place on the case file on paper for submission by the judge at the trial session.

5. THE LAWSUIT EDITING STAGE

The stage of filing the case begins after the completion of the examination and review and approval of that by the competent employee, as we have mentioned in detail in (Figure No. 3) and the researcher identified two cases to release the case.

1. The first case (Editing the case).

The case shall be issued and submitted to the judge in a public hearing in case the documents are complete

2. The second case (failure to file the lawsuit).

- If the attorney of the electronic applicant or the plaintiff does not attend in person and submits the original documents, the case will not be issued.
- The attorney refusing the applicant or the plaintiff in person to write the case.
- The attorney defending the applicant or the plaintiff in person from the lawsuit.

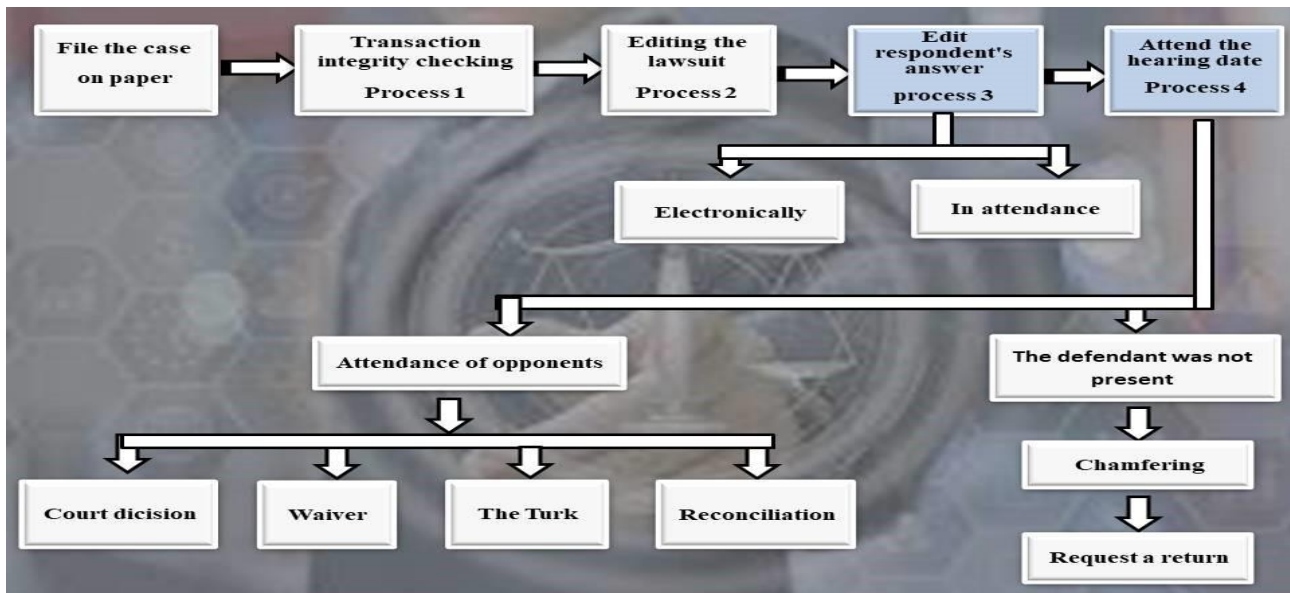


Figure 10. The lawsuit editing stage.

After completing the filing of the lawsuit and announcing the defendant by sending SMS on the personal mobile phone containing the case number and the date of the session and the necessity of his presence in person or his representative to receive a copy of the lawsuit petition and documenting the defendant's announcement and attaching it to the case, the case shall be submitted to the judge in the public session. If the plaintiff does not attend Or his attorney, at the time of the public hearing, the judge shall issue a ruling to cancel the case, and the plaintiff has the right to renew the lawsuit from the cancellation within 30 days from the date of issuance of the judgment.

In the event that the litigants attend the date of the public session, the judge shall issue his judgment with the following rulings (judgment, waiver, abandon, reconciliation), then the clipping officer copies the final judgment draft for signature by the judge.

Then, the final review is done to estimate the fee difference, if any, and then the lawsuit is sent for safekeeping, and after the legal appeal period has passed, a letter will be sent to the plaintiff to come to receive his documents.

From Figure 2 to Figure 10, they reviewed the stages that take place within the proposed model for the general framework of electronic litigation, and through this proposed model, we can keep pace with the continuous technological development and the rapid global digital transformation. The form also accepts development until we reach the stage of remote litigation and conduct full judicial trials remotely, through which we can skip the stage in Figure No (10), which is the paperwork, where the entire case is transmitted to the competent employee electronically, and it is also sent electronically to the judge before the convening The session is held electronically via video conferencing, where the lawyer can attend the session electronically and remotely. This proposal achieves many advantages that keep pace with the tremendous information technology development.

- Achieving prompt justice through the speed of litigation procedures with mastery of judgment.
- Standardizing procedures for all courts to avoid discrepancies and individual jurisprudence.

- Reducing the burden of litigation on lawyers and litigants.
- Raising the efficiency of the employees using modern technology.
- Reducing the postponement of the sessions due to the reasons for completing the procedures.
- Address the small number of employees in the courts.
- Create a database that includes all court cases at the Ministry of Justice level, to be viewed from anywhere, electronically.
- Establishing an electronic judicial library that includes all legal references and texts to assist the judge in issuing his judgments.

6. CONCLUSION

In this paper, proposed a general framework of electronic litigation for civil courts in Egypt and the stages and steps taken by the lawyer or the litigant in dealing with the electronic litigation system to benefit from all the services provided as well as the stages and steps of filing a lawsuit electronically. This is in the context of the Egyptian state's adoption of the idea of digital government and the extent of the benefits and gains from the application of electronic litigation and the development of the judiciary facility using modern technological means, which is represented in providing the right to litigation for all litigants easily and conveniently with the realization of the idea of prompt justice. The researcher has reviewed many scientific researches for many countries that have been interested in the idea of electronic litigation, and it turns out the following:

First, the possibility of registering the judicial case in general and the civil cases in particular, presenting evidence, following up on the cases, attending the hearings, leading to the judgment, and implementing it. Through electronic means of communication, which are part of an information system that puts judges in contact with litigants without appearing their profile.

Second, electronic litigation puts all solutions to all the challenges facing the state in general and the judiciary in

particular, such as the small number of employees, the delay in the time for adjudication of cases, the lack of advertisements reaching the defendants, and many of the advantages mentioned in detail in the research.

Third, through the e-government system, we can link between the judiciary facility and all other state agencies.

Finally, the use of electronic litigation prevents the issuance of two successive judgments by the same court or judicial circuit between the same litigants. The topic is because there is an electronic archive section to preserve all provisions and issues.

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