

THE ROLE OF FORENSIC ACCOUNTANTS IN ONLINE DISPUTE RESOLUTION: BENEFITS AND CHALLENGES

Mosleh Al-Tarawneh^{*}, Haitham A. Haloush^{**}

^{*} Faculty of Law, Al-Ahliyya Amman University, Amman, Jordan

^{**} Corresponding author, Faculty of Law, Al-Ahliyya Amman University, Amman, Jordan

Contact details: Faculty of Law, Al-Ahliyya Amman University, Amman-Jordan-Al Salt Road, 19328 Amman, Jordan



Abstract

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The integration of technology into legal proceedings has become crucial. The potential of conducting trials, pleading, discovery, expert witnesses, and forensic accounting wholly or partially through online platforms is immense (Nasrallah et al., 2022). This paper aims to provide recommendations on the benefits and challenges of financial online dispute resolution. Through a comprehensive literature review, this paper identifies and explores the various benefits and challenges associated with incorporating forensic accountants into the online dispute resolution process. By examining the current landscape of online dispute resolution and the role of forensic accountants, this paper highlights the importance of having a robust technological framework and a well-trained team of forensic accountants to ensure the smooth functioning of online dispute resolution. The recommendations provided in this paper can serve as a valuable guide for policymakers, legal practitioners, and other stakeholders involved in the implementation of online dispute resolution systems. Overall, this paper contributes to the development of best practices for the use of forensic accountants in online dispute resolution and lays the foundation for future research in this field.

Keywords: Online Dispute Resolution, Law, Forensic Accounting, Financial Institutes

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1. INTRODUCTION

Dispute resolution, the internet, and forensic accounting are very topical issues. This becomes more evident if one bears in mind the potential delays and costs to the disputants in civil disputes. These are always a recurrent issue in the course of litigation. This is interconnected inexorably with judicial efficiency (Bailey et al., 2007). By the same token, forensic accountants as experts before courts are and should be able to adapt to the reality of

online dispute resolution mechanisms (Al Shbeil et al., 2023; Alshurafat, Al-Msiedeen et al., 2023; Rezaee & Wang, 2022; Utama & Basuki, 2022; Yusuf & Harefa, 2022).

Despite the growing interest in online dispute resolution (Al Shbeil et al., 2023; Utama & Basuki, 2022; Yusuf & Harefa, 2022), the role of forensic accountants in this context remains underexplored. This paper seeks to address this gap by examining the benefits and challenges of incorporating forensic accountants into the online dispute resolution

process. Specifically, this paper aims to provide recommendations for the use of forensic accountants in online dispute resolution and identify the theoretical and conceptual frameworks that underpin this practice.

The research question that guides this study is:

RQ: What are the benefits and challenges of incorporating forensic accountants into the online dispute resolution process?

To answer this question, a comprehensive literature review and expert interviews. The literature review is conducted to identify the relevant literature gaps and conceptual frameworks that underpin the use of forensic accountants in online dispute resolution.

The relevance and significance of this study lie in its potential to inform policymakers, legal practitioners, and other stakeholders involved in the implementation of online dispute resolution systems. The use of forensic accountants in online dispute resolution has the potential to improve the accuracy and speed of dispute resolution, reduce costs, and enhance the fairness of the process. However, to achieve these benefits, it is crucial to have a robust technological framework and a well-trained team of forensic accountants.

The remainder of this paper is structured as follows. Section 2 reviews the relevant literature. Section 3 presents the research methods. Section 4 contains the research results. Section 5 concludes the paper.

2. LITERATURE REVIEW

2.1. General background on forensic accounting

Forensic accounting is the application of accounting, auditing, and investigative skills to conduct an examination of a company or individual's financial information for use in a court of law or other legal proceedings (Alshurafat, 2021; Alshurafat, Al-Msiedeem et al., 2023; Alshurafat, Al Shbail, & Almuet, 2021; Alshurafat, Al Shbail, & Mansour, 2021; Rezaee & Wang, 2022; Sbaih et al., 2023). It is a specialized field that combines the knowledge of accounting and finance with the investigative skills of a detective (Akinbowale et al., 2021; Alshurafat, 2023a, 2023b; Sahdan et al., 2020; Yang & Lee, 2020).

Forensic accountants may be called upon to investigate a wide range of financial crimes, including embezzlement, securities fraud, money laundering, and other white-collar crimes (Alhusban et al., 2020; Alshurafat et al., 2020). They may also be involved in civil litigation, such as divorce proceedings, contract disputes, and personal injury cases, in which financial information is needed to resolve the dispute (Alshurafat et al., 2019a; Alshurafat, 2019).

Forensic accountants are often called upon to investigate financial statements, bank records, and other financial documents to uncover fraudulent activities. They may also be called upon to interview employees, customers, and other parties to gather information about the financial transactions in question (Alshurafat et al., 2019b).

One of the main responsibilities of forensic accountants is to determine the "paper trail" of financial transactions (Rezaee & Wang, 2022;

Wahyuni-TD et al., 2021). This involves tracing money or other assets through a series of transactions in order to determine where the money came from and where it went. The forensic accountant must be able to understand and interpret financial statements and other financial documents in order to identify any irregularities or inconsistencies that may indicate fraud (Alshurafat, Al Shbail, & Mansour, 2021; Suileek & Alshurafat, 2023; Taha et al., 2023).

Another important responsibility of forensic accountants is to calculate the financial damages that have occurred as a result of fraud or other financial crime (Carnes & Gierlasinski, 2001; Sahdan et al., 2020; Yang & Lee, 2020). This may involve determining the amount of money that was stolen, the cost of any repairs or replacement of assets, and the loss of income or profits as a result of the fraud. The forensic accountant must also be able to present this information in a clear and concise manner in court (Kramer et al., 2017; Tiwari & Debnath, 2017).

Forensic accountants may also be called upon to testify in court as expert witnesses. They may be asked to explain their findings, provide background information on accounting and financial matters, and answer questions from the judge, jury, and attorneys.

Forensic accountants must have a strong background in accounting and finance and should have a good understanding of accounting principles, financial statement analysis, and auditing procedures (Arboleda et al., 2018; DiGabriele & Lohrey, 2016; Lehmann, 2015). They should also be familiar with the legal system and be able to understand and interpret legal documents.

In addition to strong technical skills, forensic accountants must also have strong analytical and investigative skills. They must be able to think critically and creatively and be able to identify and analyze complex financial transactions. They must also be able to work independently and be able to manage and prioritize multiple projects simultaneously (Carnes & Gierlasinski, 2001; Davis et al., 2010; McMullen & Sanchez, 2010; Al Shbail, Alshurafat et al., 2023; Al Shbail, Salleh et al., 2023).

Forensic accounting is a challenging and rewarding career that requires a combination of technical, analytical, and investigative skills. Those who are interested in this field should consider obtaining a degree in accounting or a related field and gaining experience in accounting, auditing, or investigation (Alshurafat, Al Shbail, Masadeh et al., 2021; Alshurafat et al., 2019b; Alshurafat, Al Shbail et al., 2023; Haloush et al., 2021; Kramer et al., 2017; Alshurafat, Al Shbail, Masadeh et al., 2021; Rezaee et al., 2018). With a strong background in these areas and a dedication to the field, individuals can have a successful career in forensic accounting (Al Shbail, Alshurafat, Ananzeh, & Al-Msiedeem, 2022; Alhusban et al., 2020; Alshurafat et al., 2020; Alshurafat, 2019; Al Shbail, Alshurafat, Ananzeh, & Bani-Khalid, 2022; Yang & Lee, 2020).

Forensic accounting has grown in recent years, with the increasing demand for these professionals in various sectors like banks, insurance companies, law firms, and even government agencies (Al Shbail, Alshurafat, Ananzeh, & Al-Msiedeem, 2022; Al Shbail et al., 2021; Davis et al., 2010; McMullen & Sanchez, 2010; Pearson & Singleton, 2008). The Sarbanes-

Oxley Act of 2002, which requires public companies to establish internal controls and report any financial fraud, has further increased the need for forensic accountants. In addition, the increasing number of financial frauds and white-collar crimes has also led to a greater demand for forensic accountants (Al Shbeil et al., 2023; Alagrabawi & Alshurafat, 2021; Alhusban et al., 2020; Alshurafat et al., 2022; Alshurafat, 2019; Ananzeh et al., 2022; Ananzeh et al., 2021; Dahmash et al., 2021). Overall, forensic accounting is a field that will continue to grow in importance in the future, as companies and organizations seek to protect their assets and prevent financial fraud.

2.2. General background on online dispute resolution

The internet can be described as an international network of relationships and communities. Ethan Katsh, one of the leading authors on online dispute resolution has noticed that cyberspace is more than a data network; it is a community unto itself (Katsh, 1995). Similarly, it is believed among legal scholars that the “art of persuasion” rather than “adversarialism” is a determining factor in litigation practice either in the court system or in out-of-court systems such as arbitration and mediation (Goode & Mckendrick, 2010).

As a result, it is not uncommon to argue that nothing in principle prevents transforming internet capabilities, either wholly or partially, to accommodate the reality of both the court system and the out-of-court system. Online dispute resolution (ODR) can be described as the usage of internet capabilities and technologies to deliver traditional methods of dispute resolution to deliver the proceedings and the role of neutral private bodies that are responsible for resolving such disputes.

On the other hand, online dispute resolution is regarded as a mechanism that can resolve questions that are not always legal. For instance, parties can select from a large number of forensic accountants as experts who are presumably having extensive legal and technical experience in financial disputes. It is widely accepted that divergent levels of technical comprehension of financial institutions and the complexity of the technical nature of such disputes can be handled and controlled through ODR because third-party neutrals’ expertise could be useful in dealing with certain aspects of the legal-technical setting of financial disputes.

Furthermore, the costs of expert opinions in the court system are high in financial disputes because it is characterized by increasingly complex products and services. By contrast, ODR mechanisms may reduce the need for expert opinion on complex matters, and help to streamline the dispute resolution process by affording the parties greater control over expenditures of time, effort, and money (Blackman, 1998).

Moreover, it is submitted that technological applications can enhance the expertise of forensic accountants and thus do more than simply deliver his/her expertise across the network. In this regard, it is important to recall that technological applications are metaphorically called the “fourth

party” by Katsh and Rifkin, two leading authors on ODR because they can add authority, quality, and trust, and enhance the chances of the success of the process (Katsh et al., 2001).

In this context, the US Federal Rules of Civil Procedure now expressly provide for the use of web conferencing for oral testimony¹. Similarly, in civil trials, the rules of civil procedures in England and Wales allow for the use of web conferencing².

Richard Susskind, one of the leading writers on law and IT, believes that IT and the internet will fundamentally, irreversibly, and comprehensively, transform legal practice and the administration of justice. He stated clearly that:

“It is vital to bear in mind that we are currently at the beginning of an evolutionary path which will lead in due course to an inevitably highly automated court system, under which the administration of cases will flow from start to finish in a largely automated environment, with human intervention only for judicial decision making and management decision making” (Susskind, 2003, p. 240).

3. RESEARCH METHODOLOGY

This conceptual paper aims to explore the benefits and challenges of incorporating forensic accountants into the ODR process. To achieve this goal, a comprehensive literature review of relevant sources, including academic articles, textbooks, and industry reports (Petticrew & Roberts, 2008).

The literature review will be conducted in several stages. First, a broad search is conducted using online databases such as Google Scholar, ProQuest, and EBSCOhost to identify relevant publications in the fields of forensic accounting, ODR, and related topics. The search includes keywords such as “forensic accounting”, “online dispute resolution”, “mediation”, “arbitration”, “conflict resolution”, and “e-commerce”.

The second stage of the literature review involves a more focused analysis of the selected sources. The research team uses a content analysis approach to identify common themes and concepts related to the benefits and challenges of incorporating forensic accountants into the ODR process. The content analysis involves a systematic and objective assessment of the data, using predefined categories and codes to identify patterns and relationships in the data.

4. RESULTS

4.1. The role of forensic accounting in dispute resolution

Since its emergence, forensic accounting has been recognized for its usefulness in online financial dispute resolution (Ozili, 2020; Sahdan et al., 2020; Yang & Lee, 2020). The major perception of the public toward forensic accounting is that it attempts to detect fraud and financial misconduct (Öztürk & Usul, 2020). However, a substantial part of forensic accounting services’ scope is to deliver different legal services either in-court services or

¹ U.S. Fed. R. Civ. P. 43 (3).

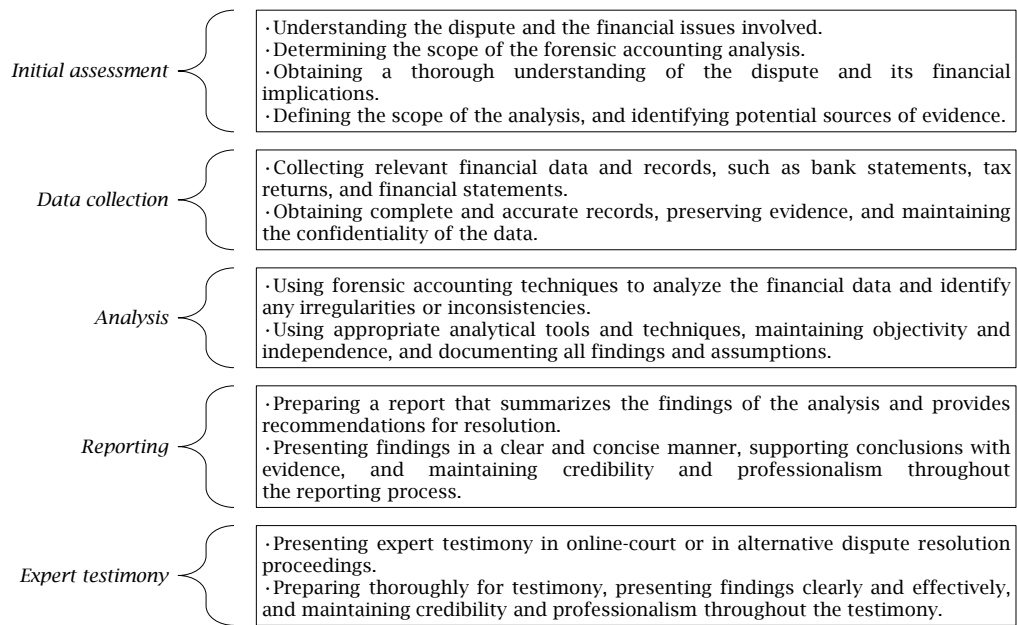
² CPR Part 32, rule 32 (2).

out-of-court services (Curtis, 2008). These services include mediation, negotiation, arbitration, dispute resolution, discovery, legal consultation, and expert testimony (Al-Hazaima et al., 2022; Brennan, 2005; Jaradat et al., 2022).

Among the above-mentioned roles, forensic accountants have been remarked on for their usefulness in financial dispute resolutions. Every day, there are forensic accountants who participate in profit loss and economic damage calculation, commercial dispute resolution, or discovery of hidden assets in a family dispute resolution (Brennan, 2005). Globally, many accounting firms

provide alternative and online financial dispute resolution services under the control of their forensic accounting team. One example could be Deloitte (www.deloitte.com), which provides litigation support services such as risk assessment and damages exposure, financial analysis and damages theories, expert testimony, arbitration, buy and sell disputes, and securities litigation. Some forensic accounting practitioners serve as neutrals familiar with arbitrating under different regulations. The following figure illustrates best practices for forensic accounting in the context of dispute resolution.

Figure 1. Best practice of forensic accounting in ODR



4.2. Benefits of online dispute resolution

ODR can provide several benefits, such as convenience, accessibility, efficiency, cost-effectiveness, and scalability. ODR allows parties to resolve disputes remotely, eliminating the need for in-person meetings and can make the dispute resolution process more accessible to individuals and businesses that may have difficulty travelling to a physical location (Crain et al., 2019; Fleming et al., 2008; Pearson & Singleton, 2008; Rezaee et al., 2018). It can often resolve disputes more quickly than traditional methods, as the process is typically less formal and can be done entirely online. Additionally, it can be less expensive than traditional methods, as there are usually no travel or in-person meeting expenses and is well suited for resolving disputes in high-volume situations such as e-commerce transactions (Crain et al., 2019; Fleming et al., 2008). ODR can provide several benefits, which can be summarised as follows.

- *Convenience:* ODR allows parties to resolve disputes remotely, eliminating the need for in-person meetings.
- *Accessibility:* ODR can make the dispute resolution process more accessible to individuals and businesses that may have difficulty travelling to a physical location.

- *Efficiency:* ODR can often resolve disputes more quickly than traditional methods, as the process is typically less formal and can be done entirely online.
- *Cost-effectiveness:* ODR can be less expensive than traditional methods, as there are usually no travel or in-person meeting expenses.
- *Scalability:* ODR can handle a large number of cases at once, making it well-suited for resolving disputes in high-volume situations such as e-commerce transactions.

4.3. Challenges of online dispute resolution

ODR can present several challenges, such as technical difficulties, language barriers, lack of trust in the process, limited legal recourse, and limited ability to assess credibility (Alshurafat, Al-Mawali et al., 2023; Alshurafat, Al Shbail, & Almuqiet, 2021; Crain et al., 2019; Fleming et al., 2008). ODR may require the use of specialized software and technology, which can pose challenges for parties who are not familiar with or do not have access to the necessary equipment. Language barriers may also be an issue as ODR may be conducted in a language that is not the first language of one or more of the parties, which can make it difficult for them to fully understand and participate in

the process. Parties may be hesitant to use ODR if they do not trust the process or the individuals overseeing it. ODR may not provide the same legal protections or remedies as traditional dispute resolution methods, which may make it less appealing to some parties. Furthermore, online communication can make it more difficult to assess the credibility of parties and evidence, which can be a hurdle in resolving disputes (Alshurafat, Al Shbail, & Almuiet, 2021; Crain et al., 2019; Fleming et al., 2008). ODR can present several challenges, which can be summarised as follows.

- *Technical difficulties:* ODR may require the use of specialized software and technology, which can pose challenges for parties who are not familiar with or do not have access to the necessary equipment.

- *Language barriers:* ODR may be conducted in a language that is not the first language of one or more of the parties, which can make it difficult for them to fully understand and participate in the process.

- *Lack of trust in the process:* Parties may be hesitant to use ODR if they do not trust the process or the individuals overseeing it.

- *Limited legal recourse:* ODR may not provide the same legal protections or remedies as traditional dispute resolution methods, which may make it less appealing to some parties.

- *Limited ability to assess credibility:* Online communication can make it more difficult to assess the credibility of parties and evidence, which can be a hurdle in resolving disputes.

5. CONCLUSION

This paper argues that forensic accounting specialists represent an added value if they are sufficiently involved in financial online dispute resolution. It must be conceived that the governments, nationally and globally, may not be willing to reconcile with online dispute resolution mechanisms, particularly while these mechanisms are only in its infant stage. The use of such systems

is still growing, and new concepts need to be further explored and crystallized. The acceptance of online dispute resolution probably requires more time to evaluate their effects. The authors believe with the passage of time and gained experience, confidence and trust in such systems will be built up gradually. Having said that, education is a key element in this regard since it is not likely that many people will take part in a process they do not know.

This paper has provided recommendations on the benefits and challenges of incorporating forensic accountants into the online dispute resolution process. Through a comprehensive literature review and expert interviews, this study has identified the theoretical and conceptual frameworks that underpin the use of forensic accountants in online dispute resolution and highlighted the importance of having a well-trained team of forensic accountants and a robust technological framework to ensure the smooth functioning of the ODR process.

This study has some limitations that should be acknowledged. The study only focuses on the use of forensic accountants in online dispute resolution in the context of financial disputes. Future research can investigate the use of forensic accountants in other types of disputes such as intellectual property and employment disputes.

In conclusion, this paper has contributed to the development of best practices for the use of forensic accountants in online dispute resolution. By highlighting the benefits and challenges associated with this practice, this study has provided insights for policymakers, legal practitioners, and other stakeholders involved in the implementation of online dispute resolution systems. The recommendations provided in this study can serve as a valuable guide for the implementation of effective and efficient online dispute resolution systems that incorporate the use of forensic accountants. Overall, this study provides a foundation for future research in the field of forensic accounting and online dispute resolution.

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