



The Legal Effect of Electronic Notification in a Civil Lawsuit

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This research is funded by the Deanship of Research and Graduate Studies at Zarqa University /Jordan

Abstract

Electronic notification is an electronic method of reporting through modern means of communication created by necessity to keep pace with technical progress in all aspects of life. It differs from traditional notification in terms of the means, but it is similar in terms of the necessity of providing basic information and data required by law for the purposes of valid notification. Electronic notification means: the adoption of new and modern means through modern means of communication that help inform the parties to the conflict in a manner that keeps pace with technological development and is characterized by speed and reduces legal disputes over the validity of notification.

Electronic notification is a means of notifying the parties to the conflict, which is done through modern means of communication. Where the Jordanian legislator organized electronic notification in the Civil Procedure Code, the Evidence Law, the Electronic Transactions Law, and the system of using electronic means in judicial procedures by electronic means to conduct electronic notifications, which the legislator did not limit, but left unlimited. This is because of the tremendous technological progress and development that results in new electronic means that the legislator cannot limit to a specific time, article (7) of the System of Using Electronic Means in Judicial Procedures specified the following electronic means for conducting judicial notifications, which are e-mail and text messages via cell phone, the electronic account established for the lawyer, and any other means approved by the Minister.

There is official oversight over the electronic notification procedure to ensure its accuracy and confidentiality, and the Jordanian jurisprudence has settled on the adoption of electronic notification when it meets its legal requirements, but by extrapolating the jurisprudence, we find that electronic notification is an aid to and complement to traditional notification and not a substitute for it. This requires a legislative amendment to harmonize the legislative texts regulating the electronic notification procedure.

Keywords: Electronic notification, traditional notification, electronic device, Means of Electronic notification, E-mail, The system of using electronic means in judicial

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procedures, electronic bond, Electronic Certificate of Authentication, electronic information system, E-mail message.

DOI Number: 10.14704/nq.2022.20.5.NQ22715

NeuroQuantology 2022; 20 (5):4312-4323

1. INTRODUCTION:

The technical and technological development in the field of information and communications in our time has made it necessary for the legislator to intervene to amend legislation to keep pace with the tremendous technological development by adopting new and modern means through modern means of communication that help inform the parties to the conflict electronically.

Importance of the Study:

The importance of this study lies in the extent to which the legislation governing the electronic notification process in Jordanian legislation is consistent with the scientific and technical development of modern means of communication on the one hand and the extent to which electronic notification maintains the availability of basic and legal rules for the validity of reporting contained in the provisions of the law.

Research Problem:

The research problem lies in the question, is the method of conducting the electronic notification contained in the legal texts consistent with the general rules for the validity of notification?

Study Organization:

In the present study two demands will be met, in the first one the nature of electronic notification will be discussed, and the definition of electronic notification and the means of conducting electronic notification. Then in the second one we study the authority

of electronic notification, then legislative and judicial applications on electronic notification.

1.1 The nature of the electronic notification:

1.1.1 Definition of Electronic Notification:

Judicial notification is the legal means by which the litigant is informed of a specific fact, and enable him to view it and hand him a copy of it (1), Judicial notification is a method by which the parties to a dispute are notified in a lawsuit filed before the judiciary with a specific procedure of the lawsuit's procedures, and at one of its stages, the law requires informing the parties of it (2). Through notification, the litigants are informed of the case and a copy of it is communicated to them.

As for electronic notification: it is the adoption of new and modern means through modern means of communication that help inform the parties to the conflict in a way that keeps pace with technological development and is characterized by speed and reduces legal disputes over the validity of notification (3).

Through the definition of electronic notification, it becomes clear that electronic notification is similar to traditional notification in terms of its official status, as it is issued by a government agency and by a specialized employee within the authority granted to him by law, also, it is not challenged except for forgery, and it also includes the notification of a specific fact in a

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case to a court with a jurisdiction in place at one stage of the case.

1.1.2 The reasons for using the electronic notification:

Keeping pace with the tremendous development in the field of technology and the age of the Internet has made it necessary to resort to electronic notification because of the speed and accuracy of this method of notification, which may not be present in the method of notification by traditional methods.

In our present time, there is hardly a person who does not have a mobile phone, e-mail, or a means of communicating via the Internet or any electronic means, especially since the official departments in the state at the present time ask any citizen to state a phone number or an e-mail or stating any electronic means for the purposes of notifying him. Also, the Telecommunications Law prohibits the sale of mobile phone numbers except after verifying the personal status card of the subscriber under a contract concluded between the telecommunications company and the user, and in the same way when assigning a mobile phone number to another person. The law requires that this waiver be made with the telecommunications company, the aim of this procedure is to make the user responsible for maintaining his number and to ensure that the mobile phone number is used only by the user himself.

It is worth noting that the legislator, when authorizing the electronic notification procedure, aims to avoid the common mistakes that occur in traditional notification, including fictitious notification and the resulting consequences, as well as

notification by publication in local newspapers, which have become less visited in light of digital media, newspapers and websites.

It is worth noting that the electronic notification must include all the necessary data to be reliable, otherwise this notification will be in violation of the Code of Civil Procedure (4).

The President of the Judicial Council has issued a circular to the heads of courts in the Kingdom and the Public Prosecution departments requesting the judges to start using electronic means (such as e-mail and text messages) in conducting judicial notifications along with the methods set forth in Articles (5-12) of the Civil Procedure Code, as of 16/9/2019, the circular included keeping the notification statement in the case file and not accepting the registration of any complaint or lawsuit from the complainant, plaintiff, or the convicted person until after their attorneys had registered their phone numbers, addresses and email addresses.

1.1.3 Electronic notification means:

There are several electronic means for conducting electronic notifications, which the legislator did not limit, but left them unlimited, because of the tremendous technological progress and development that results in new electronic means that the legislator cannot limit in a specific time. We find that Article (7) of the Law of Using Electronic Means in Judicial Procedures states:

- A. the following electronic means are used to conduct judicial notifications:
 1. Email.
 2. Text messages by cell phone.



3. The electronic account established for the lawyer.

4. Any other means approved by the Minister.

- B. When notifying by electronic means, the conditions and data that must be available in judicial notifications stipulated in the law shall be taken into account.
- C. Each stakeholder has the right to challenge the invalidity of the current notification by electronic means, in violation of the provisions of this law.
- D. The notification made in accordance with the provisions of this system shall have the same legal effects as the notifications made in accordance with the provisions of the law.
- E. The Ministry takes all necessary measures to enable the courts to archive the notifications made by electronic means for reference when needed.

Through the text of Article (7) of the system of using electronic means in judicial procedures, we can define the electronic means in the notification procedure in accordance with Jordanian legislation as follows:

First: The cell phone (mobile phone):

The cellular mobile phone is one of the modern means of communication produced by contemporary technology. It is via satellites that are connected wirelessly to each other. It is a means of voice communication, a store of information comparable to the capacity of computers, a browser for the Internet, and a tool for receiving and sending short messages with audio and video. In the field of electronic communication, the cellular phone

contributes to facilitating the task of sending short messages with sound and image with extreme accuracy and speed. These short messages are considered an official notification issued by an official authority and take the power of traditional notification in the event that there is legislation that supports this method of judicial notification.

It is worth noting that sending the notification by mobile phone does not require a connection to the Internet to send the SMS, and with the availability of the feature of knowing the arrival of the message to the party to be notified.

Second: The E-mail:

E-mail is linked to the World Wide Web (Internet), allowing messages to be exchanged between devices connected to the Internet, uploading them to non-paper supports and then retrieval on a written paper (6) through which the notification is sent to the e-mail of the person to be notified, and upon the arrival of the notification to the one to be served, a message is received that includes the receipt of the mail sent to him for notification, in a speed and accuracy that the traditional means of notification are unable to achieve.

It is unreasonable for the legislator to be immune from the technological development that occurs in all aspects of life, and it has become imperative and necessary for the legislator to employ this technology to serve the judicial facility, which is positively reflected in the speed and accuracy of completing judicial work and ensuring that the parties to the dispute are aware of the subject matter of the case in accordance with the principle of confronting the opponents, for this reason, the Jordanian legislator



intervened and legislated texts that serve this lofty goal by using electronic means, including e-mail, by sending and receiving via e-mail instead of regular mail.

The e-mail includes data, information and files that can be exchanged between the sender and the addressee directly or by virtue of an appendix that contains a database such as papers, the case statement, the list of evidence and the documents attached within the list of evidence.

It should be noted here that the Jordanian Bar Association requires the lawyer practicing the legal profession to have an e-mail, and also requires the practicing lawyer to document his phone number on an annual basis, the lawyer's phone number and e-mail are linked with the Bar Association and the Ministry of Justice through a database linking lawyers to the Ministry of Justice for easy sending of electronic notifications.

We find that the Jordanian legislator, in the system of using electronic means in judicial procedures No. 95 of 2018. Article (5) states the following:

- a) For the purposes of implementing the provisions of this system, every lawyer must submit to the Bar Association a statement signed by him on the form prepared by the Ministry, including his information related to his name, residence address, office, telephone numbers and e-mail.
- b) In the event of any change to the information declared by the lawyer, he is obligated to inform his union about it in the same manner stipulated in Paragraph (A) of this Article.

- c) The address of attorneys for companies legally obligated to appoint lawyers is considered a valid address for the purposes of implementing the provisions of this system.
- d) The Ministry and the courts have the right to permanent access to the information declared by the lawyer in accordance with the provisions of this article through the electronic link with the Bar Association.
- e) The Ministry and the courts may rely on the information declared by the lawyer to carry out the civil judicial procedures by electronic means.
- f) The Ministry may create a database in which the information declared by the lawyer and any other information that can be used for the purposes of implementing the provisions of this system are kept.

Third: Any other means approved by the Minister:

Referring to the text of Article (4/A/3) the system of using electronic means in judicial procedures No. 95 of 2018, it clearly states the following: "After informing the other party of the statement of claim and its attachments, the lists may be exchanged between the parties to the lawsuit using electronic means".

We also find that the legislator stipulated that the electronic notification be carried out in accordance with the legal procedures stipulated in the law, as stated in Article (3) of the system of using electronic means in judicial procedures No. 95 of 2018 the following: "The provisions stipulated in the law shall be taken into account when carrying out civil judicial procedures by electronic means provided for in this system".

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1.2 Authentic electronic notification:

Electronic notifications are an electronic document that has a legal validity equivalent to traditional official documents, the electronic document is based on an electronic support, but this authenticity must have conditions represented in linking the electronic document (7) to a specific site according to procedures determined by a government agency represented by the Ministry of Justice, with a site belonging to the Ministry approved for the notification procedure, with the possibility of changing and altering the notification except with the permission of that government authority, Likewise, for the electronic notification to be formalized, it must be issued by a government employee or a person granted by law the capacity of a public employee charged with a public service within the limits of his specialization, organized by the employee responsible for conducting notifications.

It is worth noting that the Jordanian Ministry of Digital Economy is competent to document electronic services and issues an electronic authentication certificate, but the Electronic services Law grants other official bodies the right to authenticate and issue an authentication certificate with the approval of the Council of Ministers, and this is what is stated in the text of Article (5) of the Electronic services Law, which stipulates that:

- a) "The Ministry of Digital Economy and Entrepreneurship is the electronic authentication authority for ministries, public official institutions, public institutions and municipalities, and it issues electronic authentication

certificates for use in the services of any of them".

- b) "The Council of Ministers, upon the recommendation of the Minister of Communications and Information Technology, may entrust any official public authority or institution or government agency with the tasks set forth in Paragraph (a) of this Article".

1.2.1 Legislation governing the electronic reporting process in Jordanian law:

1. Civil Procedure Law and its amendments No. 24 of 1988)(8):
The Civil Procedure Code of 1988 and its amendments stipulate how to notify litigants electronically, as Article (7) stipulates:
 - a) 1. Judicial papers are notified by delivering a copy of them to the person to be notified, wherever he is, unless there is a text states the contrary. 2. Any person may appoint another person residing in the jurisdiction of the court as his representative to accept the judicial papers.3. This appointment may be private or general, and it must be made in a written instrument signed by the principal in the presence of the chief clerk who certifies the validity of this signature and keeps it among the case papers.
 - b) If notification is made in one of the ways set out in this law and it is not possible to notify the person requested, notify him in person, or if his representative cannot sign the receipt, the court may, before approving the notification, instruct the court clerk to send a brief notice of the subject of notification to that person by cell phone or any

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electronic means specified by the system, and the court may Verify the correctness of sending this notice in any manner it deems appropriate.

Likewise, Article (5/2/a) of the Civil Procedure Code stipulates: "The court has the right to verify the correctness of the address that the litigant provides to it in order to notify the other litigant or witnesses using electronic means determined according to a regulation issued for this purpose."

If it is not possible to carry out the notification by the normal methods, the court may send a notice to the person to be notified, inviting him to refer to the court through an electronic means specified by the system.(9)

2. Regulation of Using Electronic Means in Judicial Procedures No. 95 of 2018: (10)

According to Article (7) of the system, these means are: (e-mail, text messages via cell phone, the electronic account established for the lawyer, and any other means approved by the Minister of Justice).

3. Jordanian Evidence Law:

Article (13/3) of the Jordanian Evidence Law No. (30) of 1952 and its amendments (11) states the following:

- a. Subject to the provisions of this paragraph, fax, telex, e-mail and similar modern means of communication shall have the power of ordinary bonds of proof if they are accompanied by the testimony of the one who sent them to support their issuance, or the testimony of the one they

reached to support his receipt of them, unless proven otherwise.

- b. The e-mail messages shall have the power of ordinary bonds of proof without being accompanied by a certificate if the conditions required by the law of electronic services in force are fulfilled.
- c. It may be agreed that the data transferred or saved using modern technologies through a secret number agreed upon between the two parties shall be an argument against each of them to prove the services made pursuant to those data.

The legislator kept pace with the modern development in the field of proof and introduced modern means of communication in addition to faxes, telexes and e-mails, and gave them the power of regular attribution in proof within conditions. (12)

4. Jordanian Electronic Services Law No. 15 of 2015:

This law deals with everything related to electronic services, such as electronic signature, electronic authentication, and authoritative computer extracts, in the Electronic services Law, the legislator defined electronic services and defined the system of electronic services, electronic means, electronic information message, electronic record and electronic document, where it stipulated in Article (2) of it: "Services: Any action that takes place between one or more parties to create an obligation on one party or a reciprocal obligation between two or more parties, whether such action is related to a commercial or civil business or is with a government department. Electronic Services: Services



carried out by electronic means. Electronic means: The technology of using electrical, magnetic, optical, electromagnetic, or any similar means. Electronic information: data, text, images, graphics, shapes, sounds, symbols, databases and the like.”

Electronic Information System: “A set of programs and tools designed to create, send, deliver, process, store, manage or display information by electronic means.”

Electronic Information Message: “information that is generated, sent, received or stored by any electronic means, including e-mail, short messages, or any electronic exchange of information.”

Electronic Record: “The information message that contains a record, contract, or any other document or document, any of which is created, stored, used, copied, sent, communicated or received using an electronic medium. While electronic bond: the bond that is created, signed and circulated electronically.”

The Electronic Services Law mentioned the application of this law to Services made by electronic means in Article (3/a) of it, and despite the legislator’s determination of the Services to which the provisions of the Electronic Services Law apply, he made an exception and specified it exclusively in Article (6) of it. (13). Referring to Article 3 of it, it stipulates:

- a) The provisions of this law shall apply to Services made by electronic means.

Article 14 of the Electronic Services Law specifies the place of sending and receiving the electronic message and stipulates:

1.2.2 Judicial Applications to Electronic Notification:

The Jordanian Court of Cassation has tried to adopt electronic notification as a means of making notifications and informing the parties to the dispute of the proceedings whenever the law requires it. The Jordanian Court of Cassation decided in its ruling (14) the following: “Accordingly, and by extrapolating Article 7 of the system of using electronic means in civil judicial procedures, we find that it has adopted text messages via cell phone as one of the electronic means approved for conducting judicial notifications, and that notification made in accordance with the provisions of this system has the same legal effects that take place in accordance with the provisions of the law. This is because the aforementioned notification was made by the electronic means that is reliable for conducting judicial notifications, and the distinguished agent did not submit a challenge about the validity of the cell phone number to which the text message was sent, so this notification would be productive for its effects. Based on the foregoing, we decide to dismiss the discriminatory appeal and to ratify the contested judgment.” We find through this ruling that the Court of Cassation used the electronic notification, its compliance with the law, and the product of its effects. Based on the foregoing, we decide to dismiss the discriminatory appeal and to ratify the contested judgment.” We find through this ruling that the Court of Cassation used the electronic notification, its compliance with the law, and the product of its effects.

However, this notification must include adequate information in terms

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of the case number, the name of the court, the name of the person to be notified and any data required by law for the validity of the notification. If the conditions stipulated in the Civil Procedure Code for the validity of the notification are not observed, then the fate of the electronic notification will be null (15). Likewise, errors in the electronic notification lead to the exclusion of this notification and its non-accreditation (16).

However, we find in the judgments of the Court of Cassation a kind of hesitation and absolute lack of certainty in approving the electronic notification separately from the traditional notifications, as we find that there are judgments issued by the Court of Cassation that require that he exhaust the traditional methods of notification before commencing the notification by the usual methods. This is what we note in the judgment of the Jordanian Court of Cassation No. 4059 of 2021 dated 19/1/2022, which was published on the website of your decision, which stated: "Articles 4-10 of the Code of Civil Procedure indicate how notification is carried. Also, Article 7 / b of the system of using electronic means in civil judicial procedures has stipulated that "when making notifications by electronic means, the conditions and data that must be available in judicial notifications stipulated in the law shall be taken into account".

And since we find that what is benefited from the provisions of the Civil Procedure Code in terms of serving judicial papers is that there is a gradation in the notification procedure. Accordingly, Notifying the distinguished judge of the judgment issued by the Customs Court by text message by

phone without following the hierarchy stipulated in the Civil Procedure Code is in violation of the law and the rules, and since the Court of Appeal has ruled otherwise, which discredits its decision and necessitates a reversal.

We find in this aforementioned ruling a kind of contradiction in the rulings of the Court of Cassation, sometimes it relies on electronic notification independently of the traditional means of notification, and at other times it requires exhausting the traditional methods before conducting the electronic notification. In this regard, the researcher hopes that the provisions of the Court of Cassation will be unified in this regard, especially since the Jordanian legislature stipulates electronic notification in more than one aspect and in more than one law.

Electronic notification is an electronic means of notification, which is carried out through modern means of communication created by necessity to keep pace with technical progress in all aspects of life. It differs from traditional notification in terms of the means, but it is similar in terms of the necessity of the availability of basic information and data required by law for the purposes of the validity of notification.

2. Results:

1. Electronic notification is a means of notifying the parties to the conflict through modern means of communication.
2. For the validity of the electronic notification, it is required that the general conditions to be taken into account are provided in the Civil Procedure Code.
3. The electronic notification is legally valid and is considered an official document if it is made in



accordance with the provisions of the law.

4. The Jordanian legislator organized electronic notification in the Civil Procedure Code, the Evidence Law, the Electronic Services Law, and the system for using electronic means in judicial procedures.
5. There is official oversight over the electronic notification procedure to ensure its accuracy and confidentiality.
6. Jordanian jurisprudence has settled on adopting electronic notification when it fulfills its legal requirements, but by extrapolating judicial jurisprudence, we find that electronic notification is an aid to and complement to traditional notification and not a substitute.

3. Recommendations:

1. The researcher recommends that an explicit text be included in the Jordanian legislation on the adoption of electronic notification independently of traditional notifications and not linked to them so that it takes legal effect, that is, by amending Article (7/b) of the Civil Procedure Code to comply with Article (7) of the system of using electronic means in judicial procedures and the adoption of electronic notification separately from traditional notification, taking into account that the electronic notification includes the attachments required by law for the full validity of the notification without any deficiency, and considering it as an argument against the person to be notified until proven otherwise.

2. The researcher recommends the formation of an information base affiliated with a government agency that documents electronic notifications, linked to the courts and linked to other official authorities that obligate every person present in Jordanian territory to declare his cell phone number and e-mail or any electronic means he wishes to receive communications through it.
3. The researcher recommends that the provisions of the Court of Cassation be unified in this regard, especially since the Jordanian legislature stipulates electronic notification in more than one aspect and in more than one law.

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1. Shoshary, Salah al-Din 2010, Explanation of Civil Trials, Amman, House of Culture for Publishing and Distribution, p. 249.
2. Alqudah, Mufleh 2020, Civil Trial Procedures and Judicial Organization, Amman, House of Culture for Publishing and Distribution, p. 252.
3. Sharia, Hazem 2010, Electronic Litigation and Electronic Courts, Amman, House of Culture for Publishing and Distribution, p. 74.
4. Decision of the Court of Cassation No. 864 of 2021, publications of your decision website, which came with it, "We find that, from the point of view of the form, that the distinguished and through his representative inform the decision of the ruling, but we find that, by reference to the information recorded in the electronic notification, a notification memorandum was received by text message, but it did not include the name of the lawyer and the summary of the decision The ruling, which makes the notification contrary to the rules and the law."
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14. Jordanian Court of Cassation Decision No. 6700 of 2021 dated 20/1/2022, which is published on your decision website. Also see the Jordanian Court of Cassation Decision No. 6510 of 2021 dated 12/1/2022, which is published on the website of your decision, which states "In this, our court finds that the Court of First Instance, in its capacity of appellate, decided to conduct the trial of the appellant as adversarial in the session held with it on October 12 2021 With reference to the notification memorandum, it appears to our court that the distinguished may notify the date of this session, as a text message was delivered on this date and the receipt was made, which makes the conduct of his trial as adversarial in accordance with the rule of law and must be returned.
15. Jordanian Court of Cassation Decision No. 4059 of 2021 dated 19/1/2022, which is published on your decision website, which stated "Articles 4-10 of the Code of Civil Procedure indicate how notification is conducted, and Article 7/b of the system of using electronic means in The civil judicial procedures have stipulated that (when making notifications by electronic means, the conditions and data that must be available in the judicial notifications stipulated in the law are taken into account), and where we find that what is learned from the provisions of the Civil Procedure Code in terms of serving judicial papers is that there is a progression

in the notification procedure Therefore, notifying the judge of the judgment issued by the customs court by text message by phone without following the hierarchy stipulated in the Code of Civil Procedures is in violation of the law and the rules, and since the Court of Appeal has ruled otherwise, which defects its decision and necessitates a reversal.

16. Court of Cassation Decision No. 3617 of 2021 dated 9/28/2021, publications of the site of your decision, which came with it "And since the notification that was made to the distinguished agent was by text message to the phone number shown in the notification note, which is not the phone number installed on the lawyer's papers and the power of attorney as The name is different, as this notification does not meet the conditions for notification by electronic means.

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