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**FORENSIC DOCUMENTARY EVIDENCE AND MANAGEMENT OF  
FINANCIAL CRIME CASES IN NIGERIA.**

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**Abstract**

Using primary and secondary data, this paper examines how forensic documentary evidence relates with financial crimes' detection and societal confidence in court verdicts. Simple percentages, correlation and simple regression techniques were used to analyze the research data. The study revealed that forensic documentary evidence has significant relationships with financial crimes' detection and societal confidence in court verdict. Based on the foregoing findings, the study recommended that forensic documentary evidence should be constantly used and all stakeholders should take advantage of its numerous benefits. The study further recommended that the use of forensic documentary evidence and constant training should be made mandatory and uniform across all crimes and evidence types. This study supports the argument that effective use of forensic documentary evidence for crimes' detection can boost and sustain societal confidence in court verdicts.

**Keywords:** Forensic documentary evidence, Documentary evidence, financial crime cases, Admissibility of evidence and Weight of evidence

**1.1 BACKGROUND TO THE STUDY**

It is an undeniable phenomenon that, the use of credible and admissible evidence, whether oral or documentary, in proof of a fact in question in any judicial proceeding, is a sine quo non to the success of a court case. In the case of documentary evidence, whether private or public, the law requires that same is preferably proved by producing the primary evidence and, in its absence, secondary evidence of varying kinds. According to Uglow (2006), documentary evidence is of considerable importance in both civil and criminal proceedings, hence reliance on documentary evidence is often worthwhile as it is regarded as having greater weight. Often the information has been compiled closer to the events, and unlike a witness, a document will not be shaken by cross Examination. Before accepting forensic documentary evidence in a competent court of jurisdiction, the court will determine if the evidence is relevant, whether it is authentic, if it is hearsay and whether a copy is acceptable or the original is required. The use of forensic documentary evidence has increased in the past few decades in courts, as it relates with other forms of electronic evidence as used in proving court cases.

Therefore it is of utmost importance to recognize that application and admissibility of forensic documentary evidence under the Nigerian Law of Evidence, as a matter of Law revolves round the rules of evidence on relevancy and due to the importance of these documentary evidence in which document once tendered speaks for itself except where fraud, illegality, mistake were seen, anything documented once written and signed it is basis for it admissibility even when

original maker is not available once proper foundation is laid, as provided by the Law makes it adoptable. However, the major approaches adopted by forensic accounting technique in fraud management in Nigeria is the provision of reliable, valid and substantial forensic documentary evidence in fraud prosecution and for litigation services by the Nigerian judicial system. With the application of forensic accounting services and documentary evidence to legal proceedings, litigation services are expected to have been improved so as to ensure effectiveness of the system. However, litigation services in the Nigerian judicial system are perceived to be ineffective. The documentary evidence, demonstration, physical and oral forensic evidence which are expected to yield fruitful effect on proceedings of the Nigerian judicial system may be falling short of reality.

This study shall be geared towards the assessment of the overall acceptance and adoption of forensic documentary evidence in proving litigation and financial crime cases in Nigeria court system as well as looking into concept of forensic documentary evidence as a whole and its admissibility by the various forms of courts here in Nigeria. As Nigeria progresses in her vision to become one of the top 20 economies in the world by the year 2020, one prevailing issue that remains on the front flame is how to build public confidence in the national economy through transparent and accountable governance and reduction of all forms of financial crimes in the public sector. The catastrophic scandals of some public officials and the extensive corruption in the public sector highlights the critical need to focus on the anchors of how sound forensic documentary evidence helps to prove cases of fraud perpetrated by public officials in the competent court of jurisdiction both in developed and developing countries (Fodio, Ibikunle & Oba, 2013; Ogbonna & Ebimobowei, 2012).

Recently, there has been growing concern about measure of mystery behind the misunderstanding of this well-known position by law students, legal authors and practitioners and even judicial officers. Perhaps, this is rooted in the approach of most famous academic discourse on the point or in the negligent/loose expressions by some, who ought to be expounders of the law or, just maybe, the individual reader has not been attentive enough to the crux of the resource materials.

## **1.2 STATEMENT OF THE PROBLEM**

One of the major approaches adopted by forensic accounting technique in fraud management in Nigeria is the provision of reliable, valid and substantial forensic documentary evidence in fraud prosecution and for litigation services by the Nigerian judicial system. With the application of forensic accounting services and documentary evidence to legal proceedings, litigation services are expected to have been improved so as to ensure effectiveness of the system. Unarguably, the major primary means of proof under the Nigerian Law of Evidence as sanctioned in the Evidence Act include confession, oral testimony, real evidence and documentary evidence. These are the most important and prominent means of proof under the Nigerian Law of Evidence.

Unfortunately, litigation services in the Nigerian judicial system are perceived to be ineffective. The documentary evidence, which is expected to yield fruitful effect on proceedings of the Nigerian judicial system may be falling short of reality. The application and adoption of Documentary evidence as one of the most important means of proving cases under the Nigerian Law of Evidence has indeed generated a lot of problems to Lawyers, Judges, Scholars, and

Students, as it relates to the separation of sections that provided for the circumstances in which secondary evidence can be admissible and the modes of proof as seen in sections 89 and section 90 Evidence Act of 2011 all of which poses difficulties in interpretation and application by the Courts, Lawyers, teachers and especially to students of Law. For the past two decades, there have been several occasions when even practitioners appear confused about the application of its provisions to practical situations especially in the use of simple language provided, except, unless and the failure of the Act not defining as to the nature of certain documentary evidence as stated under section 83(4) of the evidence Act of 2011.

### **1.3. OBJECTIVES OF THE STUDY**

The main objective of this study is to determine how forensic evidence affects criminal justice and confidence in the justice system. The following are the specific objectives of the study:

1. To understand how forensic documentary evidence affects financial crimes and court verdicts in Nigeria.
2. To determine the relationship between forensic documentary evidence and financial crimes' detection in Nigeria.
3. To determine the relationship between forensic documentary evidence and societal confidence in court verdicts in Nigeria.

### **1.4 RESEARCH QUESTIONS**

The following research questions were formulated to guide the study:

1. How does forensic documentary evidence affect financial crimes and court verdicts in Nigeria?
2. Is there any significant relationship between forensic documentary evidence and financial crimes' detection in Nigeria?
3. Is there any significant relationship between forensic documentary evidence and societal confidence in court verdicts in Nigeria?

### **1.5 RESEARCH HYPOTHESES**

**Hypothesis one:  $H_0$ :** There is no significant relationship between forensic documentary evidence and financial crimes' detection in Nigeria.

**Hypothesis two:  $H_0$ :** There is no significant relationship between forensic documentary evidence and societal confidence in court verdicts

### **1.6 SIGNIFICANCE OF THE STUDY**

Courts as the machinery for the administration of justice between litigants have the ultimate duty of determining the legal rights and duties of parties before them. This task cannot be achieved without proper enquiry and investigation of the Courts about the facts and the relevant facts in dispute. This study is beneficial to all those who come into contact with Law and litigation to know how facts in issue and relevant fact as contained in the document are expected to be proved pursuant to the substantive law for its admissibility and its impact on the administration of justice. It is hoped that the results and recommendations of this study will be beneficial to Judges, legal practitioners, legal academics, students of law, institutions of higher learning etc.

Furthermore, this research will be an additional reference material in law of evidence under Nigerian law. This study will continue to be of interest to management of companies, auditors and other users of financial statements. It will enable a better understanding of common ethical and unethical accounting practices on financial reporting standard and quality.

The study will also be of importance to government agencies, companies, regulators and policymakers who are involved in regulating the ethical practice of accounting standards and guidelines, it will also educate people on unethical accounting practices, why they occur, and how we as a nation can promote ethical behaviour. Finally, this study will be of great significance to schools and students and will serve as a reference point for future researchers who will want to research more on the topic.

### **1.7 SCOPE OF THE STUDY**

This study hovers around the assessment of the overall application and adoption of forensic documentary evidence in proving litigation and fraudulent cases in Nigeria court system. The scope of this study will also cover the conceptual insights into the documentary evidence which is part of modes of proof under the Nigerian Evidence Act of 2011 for the purpose of admissibility of these documentary pieces of evidence in the competent court of jurisdiction for certain litigation and fraudulent cases as well as setbacks for adoption. The research will be restricted to the two selected court cases which occurred in the past few years as it relates to presentation and proving of documentary evidence in Nigeria. This study will also include significance of the forensic documentary evidence under the Nigerian law of evidence. Brief and necessary explanations of some court issues may be made for the purpose of clarity for the achievement of the main objectives of the study. The period this research covers ranges from 2015 to 2018. This research was undertaken in the south-western part of Nigeria where the court cases were selected.

### **2.1 LITERATURE REVIEW**

#### **2.1.1 CONCEPTUAL FRAMEWORK**

Evidence always indicates that a crime has been committed (Inyang & Goodwil, 2020) Documentary evidence forms part of the entire gamut of the Nigerian Law of Evidence. And of course, if a thing is self-evident, it does not require evidence. It is submitted that, documentary evidence is anything in which statement is written on, which can be on paper, electronic device, walls, trees, rocks, human body or in picture form. Documentary evidence is one of the major recognized modes of proof. Documentary evidence is thus of such tremendous importance in court proceedings as it is the yardstick by which the veracity of oral testimony is tested. It is for this reason that the Nigerian Law of Evidence permits trial courts to substitute the eye for the ear in the reception of evidence when the need arises. This work is based on the concept that forensic documentary evidence is important and useful only if it can assist in detecting financial crimes. To be able to prove that a financial crime has been committed, forensic documentary evidence must be relevant (i.e. relates to the facts of the case) and reliable (i.e. must come from a reliable source). It follows therefore, that a relationship exists between forensic documentary evidence and crime detection. This relationship will ideally lead to either a true or false court verdict.

Societal confidence in court verdicts will be sharpened when forensic documentary evidence is relevant and reliable.

## **2.2 THEORETICAL FRAMEWORK**

### **2.2.1 Principles in Ethics**

According to Titus and Keeton (1996), “each person capable of making moral decisions is responsible for making his own decisions, and the ultimate locus of moral responsibility is in the individual. Thus, the function of ethical principles is not to provide a simple and sure rule but to provide some guides for ones’ individual decisions and actions. In addition, an understanding of some of the general principles of ethics can contribute to background for a detailed consideration of the behaviour directed by the code of professional conduct and other ethical rules usually issued by various professional bodies. There are three schools of thought as identified by philosophers that an individual or group can use in reasoning through an ethical decision problem. These are the imperative, utilitarianism, and general principles of moral philosophy (Robertson & Louwers, 2002).

### **2.2.2 Principle of Utilitarianism (consequentialism)**

This principle posits that the moral correctness of an act is based solely on its consequences. Accordingly, they advocate that the act which maximizes the overall favorable consequences (net of unfavorable ones) should be the one that is taken. In other words the propriety of any action depends on the favourable consequences not only to the actor but to all the parties concerned.

### **2.2.3 The proponents of deontology (rule-morality)**

This principle asserts that the consequences of an act do not necessarily denote its moral correctness. They believe that the correctness of the act is greatly influenced by the underlying nature of the act itself. However, within deontology are two different perspectives. Some feel that the nature of an act is the only thing to be considered in assessing its moral correctness. This group believes that killing and lying are morally wrong under any circumstances. Others contend that the nature of the act and its consequences in a particular situation should both be considered (Mill, 1910; Bentham, 1948; Kant, 1953; Fried, 1978; Nagel, 1986). Artsberg, 2005 posits that in the auditing profession, ethical rules seem to be the most important attribute within the profession and the independence appears to be the most essential ethical rule. He however, argues that these ethical rules cannot solve the problem with consultancy assignments.

### **2.2.4 The Records Continuum Model**

The records continuum model originated in Canada but was developed and adopted in Australia in the 1980s and 1990s by Australian archival theorist, Frank Upward (Bantin, 2002). In the continuum model, records are seen as a continuous process, from creation to disposition, without a clear cut demarcation in transition from one record phase to the other. McKemmish (2010) asserts that records continuum model brings together records managers and archivists under an integrated record-keeping framework with the same goal: to guarantee the reliability, authenticity, and completeness of records. The record continuum has provided records managers

and archivists with a way of thinking about the integration of record-keeping and archiving processes. In recent times, the act of records management has been simplified and made more efficient through the advent of modern technological gadgets and devices such as computers, video, audiotape and film. These devices have the capacity to accommodate large volumes of records, and have also dealt with the bottlenecks which encumbered the processes of record keeping in the ancient time, thus allowing the process of record creation, processing, organizing and retrieval to be done at a speed of light. Irrespective of these developments, paper record storage still remains the most predominantly used in most government establishments.

### **2.3 EMPIRICAL REVIEW OF LITERATURE**

According to Okoye, Adeniyi and Inyang (2019), objects or things that are assessed as evidence during judicial proceedings must be admissible and weighty. Damagum and Chima, (2013) posits that documentary evidence in prior researches shows helps to uncover illegal financial crime in public sector as well as attributable failures, hence the use of forensic documentary evidence and other forms of evidence has risen sharply in proving various forms of litigation and fraud cases in Nigeria judicial system or financial court. Cases of documentary evidence have been decided in many courts in various countries. These cases evolved and emerged when technology is merged with it to develop to store this documentary evidence, and these data may later be retrieved for specific purposes. The use of forensic documentary evidence has increased in the past few decades in courts, has it relates with other forms of electronic evidence such as the print outs from e-mail, digital photographs, ATM transaction logs, word processing documents, instant message histories, files saved from accounting programs, spreadsheets, internet browser histories, databases, the contents of computer memory, computer backups, and other forms of computer printouts.

As the world has now become a global village, the emphasis on the application of the documentary evidence in proving cases has increasingly receive attention towards common set of court cases across the globe and this is being anchored and backed up by International court usage and the strong emergence of forensic evidence (forensic accountant's skills), more so with the innovation of the Nigerian Evidence Act of 2011 which introduced a new set of provisions making it possible for the Nigerian Courts to receive electronic and computer generated documentary evidence, a feat which was impossible under the repealed Act but, was left to the conjecture of our judges. The Nigerian Evidence Act of 2011 has not just provided for the admissibility of other forms of forensic documentary evidence such as electronic and computer generated evidence but has located electronic and computer generated evidence within the realm of documentary evidence. Thus, like every other documentary evidence, electronic and computer generated evidence may be proved either by primary or secondary evidence.

In the case of *Dr. Torti v Ukpabi* (1983), where the Court held that even if the documentary evidence is not produced from proper custody, it is admissible once it is relevant. Lack of proper custody may affect the weight the court will attach to the documentary evidence when evaluating it and no more. This is because the company tries to influence public perception by overstating profits and understating losses. In this case, the British confectionery giant expressed their embarrassments which led to the sack of the managing director and his finance director.

The need for documentary evidence in proving court cases (acceptance & rejection). With the eyes the Judge can thoroughly perceive and evaluate the oral and documentary evidence before him. The importance of documentary evidence is well enunciated in the dictum of Lord McNaghten when he asserted in *Hennessey v Keating* (1908) that the eye is no doubt the best test. While enjoining Judges in *Payton and Co v Snelling Lampard and Co.* (1901) that when they look at the documents before them and pay due attention to the evidence adduced, they must not surrender their own independent judgments to any witness be he an expert.

Documentary evidence written in a language other than English Language needs to be translated into English Language, before the court can take full advantage of its content. For example, in the case of *Ishola v. Afani Continental Co. (Nig.) Ltd* (2001) where the trial court admitted a document written in Hausa Language without its translation, the Court of Appeal, Coram Salami JCA, while holding that the trial court was wrong in admitting the document in evidence, observed as follows: “if the appellant left the document untranslated until he closed his case, the only course left to the court is to discountenance it.

On the issue relating to whether photocopy of certified true copy of a public document is admissible without further proof of certification and the view that photocopy of a public document whether or not certified cannot be acceptable and has no place under the Nigerian Evidence Act as decided in *Fawehinmi vs IGP* (2002) has been justified. This is because notwithstanding that this justification is right, photocopy of a public document is inadmissible and has no place under the Evidence Act, 2011. There is a misconstruction of the Act by adding that whether certified is also inadmissible because going by the provision of section 89 (e) and (f) provided for where secondary evidence is admissible is also related to public document in which for its admissibility under Section 90 (1) (c) of the Nigerian Evidence Act of 2011, the kind of secondary evidence admissible is certified true copy.

According to Aguda (1998), there are no degrees of secondary evidence in Nigeria. Once it is impossible to produce the original of a document, and it is a case in which secondary evidence of the contents is admissible, such secondary evidence may take the form of any of the documents covered under the Nigerian Evidence Act, or it may be in the form of oral evidence. While this opinion carries some level of precision, it needs be added that the form of secondary evidence to be used under any circumstance depends also on the statutory prescription in that regard. This will be the case with public documents where any other form of secondary evidence, but a certified copy, is not admissible in proof of its contents in court. The case of *Nwobodo v Onoh* (1983) can serve as a further illustration of the point. It was held that the results of polls signed in multiple copies and issued to candidates or their Agents was admissible as primary evidence of the contents of that which is retained by the Electoral Commission. To this end it is appropriate to reason that whenever an application is completed in duplicate, triplicate or quadruplicate, each of the copies is primary evidence of the rest as an example of documents executed in several parts but a photocopy of any of them is secondary evidence of all.

The Supreme Court case of *Agunbiade v Sasegbon* (1968) stated that “admissible evidence under the Act is evidence which is relevant and it should be borne in mind that what is not relevant is not admissible” Adoption in the Law of Evidence refers to evidence which is legally relevant, whether it is logically probable. In general, admissible evidence is that which is relevant (Inyang, 2019) and which is not excluded by rules of Law or practice. Adoption is a rule of evidence and

it is based on relevancy. The way you present your evidence will affect the weight given to it. You need to get both the evidence and the presentation right to be as effective as possible. The general rule is that the Court may attach whatever weight it chooses, to any of the items of evidence it hears and does not have to look for corroboration.

Amadi (2012) stated and we do agree with him that in most places or private business ventures, computer machines are utilized when you pay for goods and services, and information are stored therein. These types of statement kept in this form are admissible in evidence because, it shows acknowledgment, written and signed receipt of money, goods security or different sorts of properties. Today, most electronic devices are computer driven, and more so, when Section 2 of the Nigerian Evidence Act of 2011 states that "for the avoidance of doubt, all evidence given in accordance with section 1 shall unless excluded, in accordance with this or any other Act, or any other legislation validly in force in Nigeria, be admissible in judicial proceedings in which this Act applies, provided that admissibility of such evidence shall be subject to all such conditions as may be specified in each case by or under this Act".

Osinbajo (2011) stated that the stringent conditions laid down are largely concerned with establishing that the device from which the document was generated had been in regular, routine and substantially free use during the period when the document was produced. The aim is that the stringent conditions are intended to assist in resolving the difficulty of determining the accuracy of documents so produced. Ultimately, they will also assist in determining the weight to be attached to the document in question. In fact, Osinbajo stated further that the issue covered by section 84 of the Nigerian Evidence Act of 2011, which are made conditions for admissibility, should perhaps be more appropriately considered for affecting "weight".

The field of forensic accounting is the product of forensic science and accounting. Crumbley (2003) describes forensic scientists as the examiners and interpreters of evidence and facts in legal matters. Forensic accountant provides information that is used as evidence in the court of law. He investigates, appraises and documents financial fraud and white-collar crimes (such as embezzlement and frauds) by employees, management and other frauds or crimes in the organization. He estimates losses, damages and assets misappropriation and any other complex financial transaction. The whole process ends in the production of report which is tendered to assist in legal adjudication. The forensic accountants, in their investigation, use some investigative techniques in financial crimes. There should be logical linear sequence of proof of evidence inferred from the mass of physical and documentary evidence. According to Silverstone and Sheetz (2004), however, legal proof must conform to a narrow framework or rigorously enforced rules. Silverstone and Sheetz further asserted that the forensic accountant faced with the choice of deductive logic must weigh all assertions on the scale of correctness and verity. According to Schaeken et al (2000), the line of deductive argument should logically lead to a conclusion. Therefore, forming a conclusion, using deductive argument reasoning, in financial crimes investigation, the forensic accountant relates the minor premise to the major premise and weight their correctness, soundness and strength.

In spite of the increased attention paid to forensic documentary evidence over the past decade, there is little published data identifying the types of documentary evidence routinely collected, and the extent to which this evidence is submitted to and examined in forensic crime laboratories. There is even less research that describes the role and effect of documentary



evidence on financial crimes. This study is therefore, an attempt to fill the foregoing gaps. The purpose of the current study is therefore, to show how forensic documentary evidence affects financial crimes detection and societal confidence in court verdict in Nigeria.

### **3. RESEARCH METHODOLOGY**

The researchers adopted the survey research design and data were collected from both the primary and secondary sources. The study population as well as the sample consisted of 50 respondents drawn from professional lawyers, auditors, litigating officers, forensic experts and consultants and other staff members of top partnership firms whose areas of business concentration relate to forensic accounting and litigation support.

The primary data were collected through the administration of questionnaires, observations, interviews and personal discussions with the personnel concerned, while the secondary data were obtained majorly from the internet, and other sources such as newspapers, journal reports, textbooks, CBN guidelines and journals, seminar reports, circulars, communiques and library, and most especially the Nigeria Evidence Act of 2011 was also employed. The questionnaire was subsequently piloted with 20 different respondents to ensure its validity. A 5-point likert scale ranging from strongly disagree -1point to strongly agree -5points was used to measure the items in the questionnaire. Due to the confidentiality of some vital documents, we were unable to obtain documented evidence of such information. Therefore, oral interview and personal observation were employed in such circumstances.

The researchers also encountered the problems of unresponsive respondents in conducting the research. This was dealt with by giving them ample time to fill the questionnaires during their free time. Some of the respondents misinterpreted the intensions behind the research and initially refused to provide accurate information despite the assurance of confidentiality for fear of disclosure. The researchers were however, not deterred by the foregoing challenges as they were still able to collect the required information from respondents. The data collected were analyzed using simple percentages, correlation analysis technique and simple regression analysis respectively.

### **4. DATA PRESENTATION AND ANALYSIS**

Simple percentage method of data analysis was used to analyze the respondents' data while the hypotheses were tested using co-efficient of correlation. In all, 50 questionnaires were administered to the respondents, out of which all were completed and returned. The questionnaire was designed under three sub-headings; Gathering/obtaining of forensic documentary evidence, it effects and adoption in proving litigation court cases in Nigeria public sector. With each having at least five attached questions.

#### **SECTION A: Table 1: Individual Questions relating to Gathering of Documentary Evidence**

<i>Strongly agree</i>	<i>Agree</i>	<i>Undecided</i>	<i>Disagree</i>	<i>Strongly disagree</i>
<i>5</i>	<i>4</i>	<i>3</i>	<i>2</i>	<i>1</i>

S/N	QUESTIONS	OPTIONS/VARIABLES						
		No of respondent	SA	A	U	D	SD	Percentage
1	I have participated in the discovery of documentary evidence from local and international territory (either as counsel for the requesting or responding party)	50	30	12	4	4	0	100
2	There is compliance to the legal documentary evidence provisions	50	28	10	6	6	0	100
3	Procedures are followed on gathering of information relating to documentary evidence process	50	22	18	3	7	0	100
4	More than 60% abandoned cases of and early acquitted litigation cases are caused by insufficient documentary evidence information	50	15	20	5	7	3	100
5	Corruption and injustice among judicial officers/ prosecuting officers have led to the collapse of many litigation court case	50	25	21	4	0	0	100

S/N	QUESTIONS	OPTIONS/VARIABLES						
		No of respondent	SA	A	U	D	SD	Percentage
6	Lack of proper examination and deposition has led to the loss of societal confidence in certain litigation cases	50	26	24	0	0	0	100
7	Documentary evidence obtained through the conventional procedures has impact on the ultimate disposition or settlement posture of certain litigation cases.	50	26	24	0	0	0	100
8	There is relationship between application of forensic documentary evidence and societal confidence in court verdicts	50	20	20	4	6	0	100
9	Failure of forensic experts to prove the admissibility of documentary evidence in court has resulted to societal belief in its effectiveness	50	22	23	2	2	1	100

Source: Field Survey Research 2019

**4.1 SECTION A: ANALYSIS AND INTERPRETATION OF FINDINGS**

The table above reveals that 60% of the respondents strongly agreed that they have participated in discovery of documentary evidence from local and international territory (either as counsel for

the requesting or responding party) 24% agree, 8% were undecided, 8% of the respondents disagreed.

The results from table also show that 56% of the respondents strongly agreed, 20% agreed, 12% were undecided, 12% disagreed to the statement. Therefore, there was compliance to the legal documentary evidence provisions as it was indicated by the respondents. Implementation of the law of evidence act throughout the public sector as a whole would eliminate discrepancies which will lead to proper utilization of public funds.

Table above shows that 44% of the respondents strongly agreed that all procedures followed on gathering of information relating to documentary evidence process, 36% agreed, 6% were undecided while 14% disagreed. Therefore, the forensic expert in charge of investigations should account for every resource used to facilitate evidence gathering process in any ministry. The table above reveals that 30% of the respondents strongly agreed that more than 60% abandoned cases of and early acquitted litigation cases are caused by insufficient documentary evidence. 40% of the respondents agreed, 10% of the respondents were undecided, 14% of the respondents disagreed. 6% of the respondents strongly disagreed.

As shown in the table above, 50% and 42% of the respondents strongly affirmed that corruption and injustice among judicial officers/prosecuting officers have led to the collapse of many litigations and only 8% were not sure. This was backed up by Lengseth et al, (1997) who also believed that corruption affects the delivery of services since money meant for public goods are embezzled.

As per the above table, 52% and 48% of the respondents agreed and strongly agreed respectively that lack of proper examination and deposition has led to the loss of societal confidence in outcome of certain litigations. From the table 1 above, 52% and 48% strongly agreed and agreed respectively that documentary evidence obtained through the conventional procedures has impact on the ultimate disposition or settlement posture of certain litigation cases. In the table, the results after this computation, showed that 40% of the respondents strongly agreed that there is a relationship between application of forensic documentary evidence and societal loss of confidence in court verdicts 40% of the respondents agreed, 8% of the respondents were undecided, 12% of the respondents disagreed.

From table 1 above, 46% and 44% of the respondents agreed and strongly agreed respectively that the Failure of forensic expert to prove the admissibility of documentary evidence in court has resulted to societal belief in its effectiveness, 4% were not sure while another 4% disagreed and only 2% strongly disagreed. Based on the highest percentage of respondents, it implies that this kind of lack of negligence and failure of forensic experts in gathering of evidence creates room for unjustifiable judgement.

**Section B: Table 2: Effectiveness of the general operation of the forensic Documentary Evidence in Nigeria Court System**

Rating	Frequency	Percent
Excellence	22	44%
Good	9	18%
Satisfactory	11	22%
Unsatisfactory	8	16%
<b>Total</b>	<b>50</b>	<b>100%</b>
<b>Source:</b> (Research Data, 2019)		

From the research findings above, the study established that all the respondents have, at a point in time adopted a documentary evidence for proving cases in a competent court of jurisdiction, where 44% rate it effectiveness as being excellent, 18% of the respondents rate it as good. 22% of the respondents also applied satisfactory position in proving cases in court system. This provided them with the leeway to boost public perception.16% of the respondents were unsatisfied with it usage.

**4.2 Major forms of documentary evidence through which corporate organizations and individuals sought for or take into account for execution in proving litigation cases.**

The study further sought to establish the major forms of documentary evidence through which the public and private sectors or individuals execute in proving litigation cases.

The findings were as indicated in table 3 below:

**Table 3 Forms of Documentary evidence**

Means	Frequency	Percent
Oral Evidence	22	100%
Electronically Stored Data	19	86%
Bank records	18	82%
Written responses to written interrogatories	20	91%
Inspection of Personal Property /Real Property	3	14%
Other evidence (please specify below the nature of the evidence ought)	11	50%
<b>Total</b>	<b>50</b>	<b>100%</b>
<b>Source:</b> (Research Data, 2019)		

From the data presented in table 3 above, the study established that all (100%) the respondents agreed that documentary evidence mostly used for proving cases are through Oral evidence, .86% of the respondents also employed electronic store data for proving court cases. Banks record were mainly used where the respondents had already prequalified a list of cases. While

82% also made use of their bank records for any court of competent jurist who wanted to access such documentation. In addition, 91% of the respondents also made use of written response to written interrogatories. 14% of the respondents selected indicated that they used inspection of personal/real property to prove their litigation cases. In addition to the above, 50% of the respondents indicated that they also used other forms of documentary evidence.

4.3 SECTION C:

Table 4: Impact of Forensic Documentary Evidence in proving court cases

QUESTIONS	OPTIONS/VARIABLES						
	No of respondents	SA	A	U	D	SD	Percentage
Forensic documentary evidence is very important for proving court cases in the public sector?	50	22	18	3	7	0	100%
The application of Forensic documentary evidence in public sector court cases has guaranteed the standard well-being of public institutions.	50	28	12	4	5	1	100%
<i>The use of forensic documentary evidence and other techniques will ensure the fast tracking of litigation of court processes.</i>	50	26	23	1	0	0	100%
During investigation, parties' counsel conduct an American-style cross-examination of forensic evidence after examination of the witness	50	19	20	2	7	2	100%
Judicial authority uphold the assertion of any evidentiary privileges that would not likely have been recognized by the local court issuing the letter of request.	50	24	15	5	5	1	100%
The application of Forensic documentary evidence in litigation cases can be used to identify, trace and confiscate proceeds from fraudulent practices in the public sector?	50	12	18	9	8	3	100%
The application of Forensic documentary evidence in court helps to unmask the sophisticated fraudulent activities perpetrated in public institutions beyond the surface?	50	12	11	7	11	9	100%
Electronic method of documentary evidence is more preferable to oral method of documentary evidence when proving litigation case	50	21	24	3	1	1	100%
If method adopted for gathering documentary evidence is not adequately worked on, it may affect the court judgement	50	22	17	5	6	0	100%
There are standards and regulations set up for improving the procedure to be followed in obtaining forensic documentary evidence in the public sector	50	19	13	12	5	1	100%
There are measures employed to solve the problem of insufficient documentary evidence necessary for proving litigation cases.	50	28	10	5	6	1	100%

Source: Field Survey Research 2019

### **4.3.1 INTERPRETATION AND DISCUSSION OF FINDINGS**

#### **SECTION C**

When asked whether “Forensic documentary evidence is very important for proving court case in the public sector. The results showed that the quasi totality of respondents views adequate forensic documentary evidence as a means of proving most fraudulent cases in the public sector. From table 4 above, majority of the respondents agreed and strongly agreed respectively that application of Forensic documentary evidence in public sector court cases has guaranteed the standard well-being of public institutions. While the remaining respondents were not sure. Based on the highest percentage of respondents, it implies that application of Forensic documentary evidence in public sector court cases has guaranteed the standard well-being of public institutions.

This table shows that the highest percentage 52% and 46% of the respondents agree and strongly agree respectively that the use of forensic documentary evidence and other techniques will ensure the fast tracking of litigation court process and only 2% were not sure about this. This implies that with a good forensic expert’s involvement in the documentary evidence gathering process, the ministry can efficiently and effectively improved delivery of services to its citizens. Again, some of the respondents representing 48% and 42% of the respondent agreed and strongly agreed respectively that electronic method of documentary evidence is more preferable to oral method of documentary evidence when proving litigation cases, 6% of the respondents were not sure, and on 2% disagreed and strongly disagree.

The table above shows that 24% of the respondents strongly agreed that with the use of forensic accounting techniques, procurement fraud and other financial crime detection and prevention will become easier. 22% of the respondents agreed, 14% of the respondents were undecided, 22% of the respondents disagreed while 18% of the respondents strongly disagreed.

Again, nearly all the respondents agree with the fact that if method adopted for gathering documentary evidence is not adequately worked on, it may affect the court judgement as 44% of the respondents reported to strongly agree with the statement and 34% of them simply agree against 10% who were neutral and 12% who disagree.

From the table above, 26% and 38% which are the highest percentages of respondents agreed and strongly agreed respectively that there are standards and regulations set up for improving the procedure to be followed in obtaining forensic documentary evidence in the public sector. 24% were not sure whether there are standards/regulations setup actually improve procedures, and only 10% disagreed and 2% strongly disagreed.

From table above, the highest percentage of respondents that is 56% and 20% strongly agreed and agreed respectively that there are measures employed to solve the problem of insufficient documentary evidence necessary for proving litigation cases. These were followed by 12% who disagreed and only 10% were not sure of what to say about the question and 2% of the respondents strongly disagreed.

**Table 5: Factors affecting the use of Documentary Evidence in Litigation Cases**

The respondents were asked to indicate their levels of agreement with the various statements on factors that affected the use of documentary evidence as discussed above. The response options ranged from 1-5 Where 5= most important, 4= important, 3= neutral, 2=less important and 1= not important

	Mean	Standard Deviation
The provisions and guidelines of Nigeria Evidence Act Law	4.6243	0.5618
Commitment to continuous improvement by the forensic expert	4.2816	0.7139
The level of trust in the judicial system	3.486	1.2481
Past level of Success of the application by forensic expert	3.8194	1.0253
Influence by senior judicial officers	3.9581	1.3054
The required amount of evidence needed and provided	2.8914	1.8169
The lead times allowable	3.8473	1.3510
Quality issues	3.5618	1.2914
Confidential nature of the document	3.9187	1.0816
<b>Source:</b> (Research Data, 2019)		

From the above findings, respondents indicated that the provisions and guidelines of Nigeria Evidence Act law was very important factor that affected the proving of litigation case as supported by a mean of 4.6243. Commitment to continuous improvement by the forensic expert was an important factor as supported by a mean of 4.2816. However, respondents were neutral to the fact that the level of trust in the judicial system with a mean of 3.486.

On whether past level of success of the application by forensic expert, respondents indicated it was an important factor to the process with a mean of 3.8194. Influence by senior judicial officers was an important factor to the process as supported by a mean of 3.9581.

Asked whether the required amount of evidence needed and provided; respondents were neutral with a mean of 2.8914. On whether the lead times allowable affected the process, respondents indicated it as important as supported by a mean of 3.8473.

The study further sought to establish whether quality issues affected the process. Respondents indicated that it was an important factor with a mean of 3.5618. They also indicated that confidential nature of the documents was important with a mean of 3.9187. From the data collected, the respondents evaluated several factors including the effectiveness of the documentary evidence.

**5. RESULTS**

*Test of Hypothesis*

Hypothesis One

**H<sub>0</sub>:** There is no significant relationship between forensic documentary evidence and financial

**H<sub>1</sub>:** There is a significant relationship between forensic documentary evidence and financial crimes’ detection in Nigeria.

*Showing Pearson Correlation between Forensic Documentary Evidences and Financial crime detection.*

**Table 6: Co-efficient of Correlations**

		Forensic Documentary Evidence	Financial crime detection
Forensic Documentary Evidence	Pearson Correlation	1.000	.715*
	Sig. (2-tailed)	.	.000
	N	50	50
Financial crime detection	Pearson Correlation	.715*	1.000
	Sig. (2-tailed)	.000	.
	N	50	50

**Source:** Primary Data 2019

\* Correlation is significant at the 0.05 level (2-tailed).  
Using the rating level of:

*0 to +0.3= Weak Relationship*

*+0.4 to +0.6= Moderate/ Average Relationship*

*+0.7 to +0.9= Very Strong Relationship*

Table 6 indicates that there is a very strong positive relationship between forensic documentary evidence and financial crime detection at  $r = 0.715$  and at level of significance 0.05, this implies that the effective forensic documentary evidence adoption will uncovers public sector financial crimes and help proves litigation cases in the court system.

**Hypothesis Two**

**H<sub>0</sub>:** There is no significant relationship between forensic documentary evidence and societal confidence in court verdict.

**H<sub>1</sub>:** There is a significant relationship between forensic documentary evidence and societal Confidence in court verdict.



Model Summary <sup>b</sup>					
Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Durbin-Watson
1	.897 <sup>a</sup>	.805	.801	.32302	.514
a. Predictors: (Constant), forensic documentary evidence					
b. Dependent Variable: societal confidence in court verdict					

ANOVA <sup>b</sup>						
Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	24.948	1	24.948	239.098	.000 <sup>a</sup>
	Residual	6.052	58	.104		
	Total	31.000	59			
a. Predictors: (Constant), forensic documentary evidence						
b. Dependent Variable: societal confidence in court verdict						

We reject the null hypothesis (H<sub>0</sub>) and accept the alternate hypothesis (H<sub>1</sub>) since the results from the simple linear regression analysis show that R<sup>2</sup> = .81 and F-Statistic = 239.098 meaning that the model has a strong explanatory power and is significant at p<.05 (p = .000). Therefore, there is a significant relationship between application of forensic documentary evidence and societal confidence in court verdict.

## 6. SUMMARY AND DISCUSSION OF FINDINGS

From hypothesis one, the study revealed that forensic documentary evidence has significant effect on financial crimes' detection in Nigeria. This agrees with the findings of Gbegi and Adebisi (2014), that forensic accounting skills and techniques have significant effect on uncovering and reducing fraud in Nigeria.

From hypothesis two, the study further revealed that forensic documentary evidence has significant effect on societal confidence in Nigeria's court verdicts. This is consistent with the findings of Modugu and Anyaduba (2013) which revealed that there is significant agreement amongst stakeholders on the effectiveness of forensic in fraud control, financial reporting and internal control quality. This also agrees with the findings of Owolabi, Ajao and Olaoye (2013), that it is evident that there is public confidence in the court verdicts derived from the application of forensic documentary evidence.

The need for forensic experts in the Nigerian public judicial system was also revealed in the study. Forensic accountants are experienced auditors, accountants that can look into possible suspicions of fraudulent activity within a company and prevent fraudulent activities from occurring. Modugu and Anyaduba (2013) agrees with our findings as they note that there is an alarming increase in the number of financial fraud cases in Nigeria emphasizing the need for forensic accounting services.

Forensic documentary evidence is not uniform across all crimes and all evidence types. The effects of evidence vary depending upon the criminal offense, variety of forensic documentary evidence, the criminal decision level, and other characteristics of the case.

## **7. CONCLUSION**

The Nigerian nation deserves to have the best possible standards for its administration of justice and the law of evidence is pivotal to achieving this. The conclusions in this research are by no means exhaustive, but it is hoped that this modest attempt and that of other well-meaning commentators and observers will be useful in furthering the progress made in this area of the law.

In this paper, attempt was made to examine the concept of documentary evidence as a means of proving facts in evidence, its underlining principles and other prevailing trends, including misconceptions, amidst legal authors, practitioners and judicial officers.

Contrary to assertions in some quarters rendering the most viable means of proving the existence, condition or contents of public document in evidence as secondary evidence, the law remains settled that public documents may be proved by the production of the original or, in its absence or ready availability, a certified true copy thereof. It is not in doubt that the admissibility of evidence as it relates to electronic devices, social media and forensic science has gained tremendous importance in trial of cases both civil and criminal in our courts, the new Nigerian Evidence Act of 2011 having incorporated same in the Act which was not specifically provided for in the earlier Evidence Act of 2011. This has made proceedings in court much better in terms of admissibility of the same but there are still areas of deficiency which requires improvements.

This study is on the assessment of forensic documentary evidence in proving financial crime court cases in the Nigerian judicial system. The study also examined the effect of forensic documentary evidence in proving litigation case services in the Nigerian judicial system. Specifically, the study examined the extent to which forensic documentary evidence influences all forms of litigation and financial crime cases in Nigeria. The study concludes that forensic documentary evidence has been able to prove certain litigation and financial crime cases in Nigerian courts of law.

## **8. RECOMMENDATIONS**

Base on the research findings, the following recommendations are made:

- Forensic documentary evidence should be constantly employed by the Nigeria court of law in order to positively enhance the management of financial crime cases in Nigeria.
- Forensic oral documentary evidence should be administered in the court of law and should be given by expert witnesses that have good communication skills and are able to present information as exactly received.
- The Nigeria Bar Association should organize training and seminars for judges and lawyers, in order to prepare their minds for the impending explosion that will befall both certain forensic court cases, the legal profession especially via certain information technology documentary evidence.
- forensic professionals and judicial officers should take full advantage of the positive relationships which forensic documentary evidence has with financial crimes' detection and societal confidence in court verdicts.
- The deployment of forensic experts should be made mandatory for all financial fraud cases in Nigeria in order to tackle the ever rising financial crimes in Nigeria.

- Forensic documentary evidence should be made uniform across all crimes and evidence types in order to reduce the growing inconsistencies in the application of the law of evidence in Nigeria.

### **9. SUGGESTIONS FOR FURTHER RESEARCH STUDY**

An additional study on the impact of forensic evidence at the level of adjudication is also recommended.

### **REFERENCES**

- Artsberg, K. (2005). Redovisningsteori,-policy och –praxis. Lund University Publications. Retrieved from: <https://lup.lub.lu.se/search/publication/1386863>
- Aguda, T. A. (1998). *Law and practice relating to evidence in Nigeria*. Lagos, Nigeria: MIJ Professional Publishers Ltd.
- Amadi, J. (2012). Contemporary law of evidence in Nigeria vol. 1. Pearl Publishers.
- Bantin, P. C. (1998). Strategies for managing electronic records: A new archival paradigm? An affirmation of our archival traditions? *Archival Issues*, 23(1), 17–34.
- Bantin, P. (2002). *Electronic records management: A review of the work of a decade and a reflection of future directions*. New York: Marcel
- Bentham, J. (1948). *An Introduction to the principles of morals and legislation* Hafner Publishing Company. Retrieved from: [https://books.google.com.ng/books/about/An\\_Introduction\\_to\\_the\\_Principles\\_of\\_Mo.html?id=uJiwAAAAIAAJ&redir\\_esc=y](https://books.google.com.ng/books/about/An_Introduction_to_the_Principles_of_Mo.html?id=uJiwAAAAIAAJ&redir_esc=y)
- CHIEF JIM IFEANYICHUKWU NWOBODO v. CHIEF CHRISTIAN CHUKWUMA ONOH & 2 ORS (SC 96/1983) [1984] 1 (06 January 1984)
- Crumbley, D. L. (2003). What is forensic accounting? Retrieved from <http://www.edwardspub.com>
- Damagum, Y. M. & Chima, E. I. (2013). The impact of corporate governance on voluntary information disclosures of quoted firms in Nigeria: An empirical analysis. *Research Journal of Finance and Accounting*, 4(13), 166-179.
- DR. TORTI UFERE TORTI v. CHIEF CHRIS UKPABI & 2 OTHERS (SC 109/1983) [1984] 5 (20 January 1984)
- FAWEHINMI v. INSPECTOR-GENERAL OF POLICE AND 2 OTHERS (SC 201/2000) [2002] 6 (10 May 2002)
- Fodio, M. I., Ibikunle, J. & Oba, V. C. (2013). Corporate governance mechanisms and reported earnings quality in listed Nigerian insurance firms, *International Journal of Finance and Accounting*, 2(5), 279-286. doi: 10.5923/j.ijfa.20130205.01.
- Fried, C. (1978). *Right and wrong*. e-edition, USA: Harvard University Press Retrieved from: <https://www.amazon.com/Right-Wrong-Charles-Fried-1978-05-01/dp/B01FGNQLW>
- Gbegi, D. O. & Adebisi, J. F. (2014). Forensic accounting skills and techniques in fraud investigation in the Nigerian Public Sector: *Mediterranean Journal of Social Sciences*, 5(3).

- HENNESSY & CO. V. KEATING *reports of patent, design and trade mark cases*, Volume 25, Issue 12, 20 May 1908, Pages 361–368, <https://doi.org/10.1093/rpc/25.12.361>
- Inyang, W. S. (2019). A view-point: Is admissibility-weight distinction responsible for the faulty evidence found in forensic science? *International Journal of Business, Economics and Law*, 20(5), 224-228.
- Inyang, W. S. & Goodwil, G. F. (2020). Forensic evidence: How does admissibility influence weight in the law of evidence? *International Journal of Business, Economics and Law*, 21(5), 53-65.
- ISHOLA OLUSEGUN LAWSON v. AFANI CONTINENTAL CO. NIG. LTD. & ANOR. (2001) LPELR-CA/K/174/97
- Kant, I. (1953). The moral law: or, Kant's groundwork of the metaphysic of morals Hutchinson's University Library, - Ethics Retrieved from: [https://books.google.vu/books/about/The\\_moral\\_law.html?id=oGINAQAAMAAJ&utm\\_source=gb-shareThe](https://books.google.vu/books/about/The_moral_law.html?id=oGINAQAAMAAJ&utm_source=gb-shareThe)
- Langseth, P., Stapenhurst, R. & Pope, R. (1997). The role of a national integrity system in fighting corruption. Published online: 12 Aug 2010, *Commonwealth Law Bulletin*, 23(1-2), 499-528. <https://doi.org/10.1080/03050718.1997.9986471>
- McKemmish, S. (2010). Yesterday, today and tomorrow: A continuum of responsibility <http://www.infotech.monash.edu.au/.../recordscontinuum-smckp2.htm>
- Mill, J. S. (1910). The letters of John Stuart Mill - Vol. 2 Hugh S. R. Elliot Longmans, Green. Retrieved from: <https://www.questia.com/library/94914601/the-letters-of-john-stuart-mill>
- Modugu, K. P. & Anyaduba, J. O. (2013). Forensic accounting and financial fraud in Nigeria: An Empirical approach. *International Journal of Business and Social Science*, 4(7), 281-289.
- Nagel, T. (1986). *The view from nowhere*. United Kingdom: Oxford University Press. Retrieved from: <https://philpapers.org/rec/NAGTVF>
- Ogbonna, G. N. & Ebimobowei, A. (2012) Impact of tax reforms and economic growth of Nigeria: A Time series analysis. *Current Research Journal of Social Sciences* 4(1), 62-68.
- Okoye E. I., Adeniyi, S. I. & Inyang, W. S. (2019). Effect of judicial proceedings on forensic evidence. *International Journal of Economics, Business and Management Research*, 3(12), 17-34.
- Owolabi S.A., Dada S. O. & Olaoye S. A. (2013). Application of forensic accounting technique in effective investigation and detection of embezzlement to comet corruption in Nigeria. *Unique Journal of Business Management Research*, 1(1)
- Osibanjo, Y. (2011). Electronically generated evidence in Afe Babalola: Law & practice of evidence in Nigeria. 243-273.
- PAYTON AND CO LIMITED V SNELLING, LAMPARD AND CO LTD: HL 1901 Robertson, J. C. & Louwers, T. J. (2002). *Auditing and assurance services* 10<sup>th</sup> ed Boston: McGraw-Hill.

- SALAWU AGUNBIADE VS A. O. SASEGBON. SUIT NO. SC 184/66, 3PLR/1968/9 (SC)  
Schaeken, W., De Vooght, G., Vandierendonck, A., & d'Yelewalle, G. (2000).  
Deductive Reasoning and Strategies, N.J.: I
- SECTIONS 2, 84, 89 (e) and (f), 90 (1) c of the Nigerian Evidence Act of 2011 Silverstone, H. &  
Sheetz, M. (2004). Forensic accounting and fraud investigation for non-expert, New  
Jersey: John Wiley and Sons, Inc.
- Titus, H. & Keeton, M. (1996). Ethics for today. 5<sup>th</sup> ed. Publisher: Van No strand Reinhold  
Company.
- Ugnow, S. (2006). *Evidence text and materials paperback*, 2<sup>nd</sup> ed. Publisher: Sweet & Maxwell.