

DIOCESE OF DALLAS
Outline of the Formal Process



OUTLINE OF THE FORMAL PROCESS

April 9, 2016

I. PRELIMINARY INVESTIGATION ON THE PARISH LEVEL: PREPARATION AND SUBMISSION OF PETITION

A parish cleric or lay minister (Case Sponsor) is the starting point for a Petition for marriage invalidity introduced into the Tribunal.

The parish minister (Case Sponsor) assists the Petitioner to prepare a fully answered, current Petition for Investigation of a Marriage Bond including, ideally, a list of four knowledgeable witnesses. These witnesses are in addition to the parents and stepparents of both parties, who always are contacted. The parish minister (Case Sponsor) assists the Petitioner to submit with the case completed Character Reference Questionnaires from the three character references listed on the Petition. Character References are NOT people who qualify as witnesses. A witness is someone who has known either one or both parties since before the marriage. A Character Reference has not known either of the parties prior to the marriage but can speak to the credibility of one of the parties. It is normally not appropriate to use a relative as a Character Reference. A relative normally is going to be used as a witness except perhaps in the case of an in law who has “married into the family.” (See Character Reference Questionnaires.)

The Case Sponsor will encourage the Petitioner to obtain the Respondent’s full participation either as Co-Petitioner, or at least as a consenting other party. If such participation is not forthcoming, the Case Sponsor will send a letter, with consent form, to the Respondent inviting her/his participation. (See Sample Letter to the Respondent.)

Even if it is anticipated the Respondent either will not sign the Petition as Co-Petitioner or will not consent to the Petition for a declaration of invalidity, the Petitioner still is expected to make every effort to provide a current name, address, and telephone number for the Respondent. (See People Searches for assistance.) If all efforts to locate the Respondent have been exhausted, such efforts should be documented in the *libellus*.

The parish minister (Case Sponsor) assists the Petitioner to complete in full detail the Petitioner's Questionnaire and any supplemental questionnaires that may be required.

The Case Sponsor helps the Petitioner obtain copies of the civil marriage and divorce records as well as a current baptismal certificate (original, not a photocopy) with sacramental notations for the Catholic Petitioner and a current Church marriage certificate. The parish minister obtains a current baptismal certificate with sacramental notations for the Respondent and a copy of the prenuptial papers from the church of marriage. The Petitioner should provide copies of all documents such as legally obtained medical reports, CPS reports, evaluations by mental health professionals, police reports, etc., that might support the Petition.

The Case Sponsor assists the Petitioner obtain any police, medical, or court documents which might provide insight into the possible reaction of the Respondent toward self or others if contacted by the Tribunal as well as any documents which might indicate any other mental impairment such as lack of use of reason or weak-mindedness.

During this Investigation, working with the assistance of the Case Sponsor, a Tribunal Auditor or *ad hoc* Auditor may obtain witness testimonies to be submitted, ultimately, by the Case Sponsor.

Although the parish cleric or lay minister will play a vital role in presenting a well-documented case with strong proofs and in obtaining the participation of the Respondent, the decision whether to utilize the Briefer Process, rather than the Ordinary Process, will be that of the Judicial Vicar or Adjutant Judicial Vicar; thus, no promises should be made by the parish minister.

Once all is ready, the Case Sponsor will review all documents with the Petitioner and Co-Petitioner before submitting the case to the Tribunal. (See [Items Required for Introduction of Cases](#) for further detail.)

However, just as no cleric or lay minister should assure a time frame or an affirmative decision, he/she likewise should not assure the briefer process.

That being said, however, although not exhaustive, these criteria always are required if a Petition even will be considered by the Judicial Vicar or Adjutant Judicial Vicar for the Briefer Process:

- A. Both parties are on board, either as Co-Petitioners or with the Respondent (other party) consenting to the Petition for a declaration of invalidity.
- B. Grounds for a declaration of invalidity are clear.
- C. Proofs to overturn the presumption of validity are strong.
- D. Ability of the Bishop as Judge to reach moral certitude in this particular marriage is likely.

II. ASSESSMENT OF THE PETITION BY THE TRIBUNAL

Once the Petition arrives in the Tribunal, it will be assessed. During this assessment, a determination is made to be sure all canonical requirements are met:

- A. Is the current [Petition for Investigation of a Marriage Bond](#) fully completed, including the section providing for participation by the other party as Co-Petitioner? Participation of the other party as Co-Petitioner, or consent of the other party to the Petition for a declaration of invalidity, is required for consideration of the Briefer Process. Even if, at this stage, participation by the Respondent does not seem likely, the rest of the Petition still should be fully completed.
- B. Are there indications that invalidity can be proven? If not, it is possible that the *libellus* may be rejected.
- C. Has the Petitioner, or have both parties either in concert or independently, provided the

following:

1. The required declaration(s) with all questions fully answered
2. The names and contact information, if possible, for at least four knowledgeable witnesses in addition to both parents and stepparents (See [People Searches](#) for assistance.)
3. [Character Reference Questionnaires](#) completed by three credibility witnesses/character references from witnesses who did not necessarily know either before the marriage but who have a long-term relationship sufficient to speak to the character of at least one of the parties in order to confirm the veracity of the person regarding her/his confession/declaration; such questionnaires should be signed before a Catholic cleric or lay minister or before a notary public
4. Required church and civil documents (See [Document Searches](#) for assistance.)
5. Any other documents to support the Petition

Expert witnesses and professionals (social workers, medical doctors, attorneys, clergy, psychologists, licensed professional counselors, etc.) seen by one or both parties, even if the expert did not know either prior to the marriage, may be proposed. If both parties saw the expert, a release must be completed by each party in order for the expert to provide testimony to the Tribunal.

- D. Is the Tribunal legally competent (c. 1672)? Is the Tribunal competent on the basis of place of contract, domicile or quasi-domicile of the Petitioner, domicile or quasi-domicile of the Respondent, or the place where the majority of proofs will be gathered?
- E. Is full contact information for the Respondent provided? The Petitioner is expected to make every effort to provide a current address and telephone number. (See [People Searches](#) for assistance.) If all efforts to locate the Respondent have been exhausted and such efforts have been documented in the *libellus*, and the Dallas Tribunal otherwise is competent, the Judicial Vicar or Adjutant Judicial Vicar will appoint an Advocate to act on behalf of the Respondent to protect her/his rights. Is the letter sent to the Respondent to enlist cooperation as Co-Petitioner, or at least consent to the Petition for a declaration of invalidity, included as well as her/his response, if any? Are police, medical, court documents, etc., indicating the mental state of the Respondent included, if appropriate?
- F. If the briefer process is even to be considered, are the following criteria met:
1. Both parties are on board, either as Co-Petitioners or with the Respondent (other party) consenting to the Petition for a declaration of invalidity.
 2. Grounds for a declaration of invalidity are clear.
 3. Proofs to overturn the presumption of validity are strong.
 4. Ability of the Bishop as Judge to reach moral certitude in this particular marriage is likely.

The Case Name and Protocol Number will be assigned to the Petition. Preliminary grounds will be proposed in light of suggestions or observations from the Case Sponsor.

The Petitioner's Procurator-Advocate, who may/may not have been the Case Sponsor, normally will be contacted by the Tribunal within a few days of receipt of the Petition regarding anything further needed. The Tribunal works with the Procurator-Advocate for the Petitioner to obtain all that is needed so that the *libellus* may be accepted.

III. APPOINTMENT OF TRIBUNAL OFFICIALS

Shortly after receipt of the Petition, the Judicial Vicar or Adjutant Judicial Vicar appoints the Tribunal officials who will have access to the case file. These officials include the Instructor, Defender of the Bond, Assessor, Auditors, and Ecclesiastical Notaries.

IV. CONFIRMATION OF THE APPOINTMENT OF PETITIONER'S PROCURATOR-ADVOCATE

The Judicial Vicar or Adjutant Judicial Vicar confirms the appointment of the Petitioner's Procurator-Advocate, already appointed by the Petitioner on the Petition, with the understanding that the Petitioner at any time can appoint a new Procurator-Advocate.

V. APPOINTMENT OF RESPONDENT'S ADVOCATE/CONFIRMATION OF THE APPOINTMENT OF RESPONDENT'S PROCURATOR-ADVOCATE

The Judicial Vicar or Adjutant Judicial Vicar appoints the Respondent's Advocate with the understanding that the Respondent, like the Petitioner, at any time can appoint a new Advocate and/or Procurator. If the Respondent already has appointed a Procurator-Advocate, via his Petition, then the Tribunal will so confirm.

VI. ACCEPTANCE OF THE PETITIONER'S LIBELLUS

Once it is determined that the Dallas Tribunal is competent, all mandatory items have been received, and the *libellus* seems to have merit, the Judicial Vicar or Adjutant Judicial Vicar will accept the Petitioner's *libellus*. The Petitioner, along with his/her Procurator-Advocate, receives a letter informing the Petitioner the case has been received, providing the name, address and phone number of the Procurator-Advocate, outlining the sequence of the processing of the case, stating the rights of the Petitioner, and providing the proposed grounds. At this point, the Procurator-Advocate (when a Case Sponsor has introduced the case) should make contact by phone or letter with the Petitioner. Upon further review of the *libellus*, additional information or questionnaires may be requested of the Petitioner. If the Respondent already is functioning as a Co-Petitioner, or at least has consented to the Petition for a declaration of invalidity, he/she receives a letter similar to that of the Petitioner.

VII. CITATION OF THE RESPONDENT

If the other party is not already the Co-Petitioner or has not already given formal consent to the Petition for a declaration of invalidity, the Respondent, along with his/her Advocate, is contacted informing her/him of the name, address, and telephone number of her/his Advocate and of the rights of the Respondent, outlining the sequence of the processing of the case, providing the proposed grounds, and enlisting her/his participation. The Respondent initially is given 15 days in which to respond to the Court's letter. But he/she always is encouraged to become involved in the process; thus the Respondent rarely is declared absent. At the time of citation, the Respondent is given the opportunity to become a Co-Petitioner or to consent to the Petition for a declaration of invalidity.

VIII. DETERMINATION OF ORDINARY OR BRIEFER PROCESS, CONSTITUTION OF THE COURT, AND FORMULATION OF THE DOUBT

The Judicial Vicar or Adjutant Judicial Vicar then will review all the proofs, including the declarations of both parties, any statements from witnesses, and any other documents as well as the comments of the Defender of the Bond. As a result of this review, the Judicial Vicar or Adjutant Judicial Vicar determines whether the case meets the criteria for the Briefer Process with evidence of merit sufficient to lead toward moral certitude as to the nullity of the union. If such criteria are in place the Judicial Vicar or Adjutant Judicial Vicar will so decree and appoint the Bishop as Chief Judge. If such criteria are not in place the Judicial Vicar or Adjutant Judicial Vicar will decree the Ordinary Process and constitute the Court appointing a Collegiate Three Judge Court or a Sole Judge. The decree determining the process to be followed will be communicated to the parties and the Defender. The Judicial Vicar or Adjutant Judicial Vicar at this time also formulates the doubt and the parties are informed of the grounds on which the case will be pursued. The Instruction of the Case begins with the gathering of any documents or statements not yet obtained.

IX. CASE INSTRUCTION, PUBLICATION OF THE ACTA, CONCLUSION, DEFENDER OF THE BOND, AND DECISION: BRIEFER PROCESS

If a case has been determined to have met the necessary criteria for the Briefer Process, case instruction is minimal, if required at all, and the Judicial Vicar or Adjutant Judicial Vicar signs the Decree of Publication of the Acts, which gives the parties 21 days from the date of the letter notifying the parties of publication to review any proofs not yet known to them. After this 21-day period, the Decree of Conclusion is signed and the Acts are notarized. The case is given to the Defender of the Bond, whose duty it is to verify that all procedural requirements are fulfilled and, then, study the merits of the case. The Defender, for the attention of the Bishop, will indicate in his/her brief the deficiencies in the proofs as well as those proofs for which he/she cannot marshal any objections.

With the observations of the Defender of the Bond at hand, the Instructor and Assessor present the case, along with their assessments, to the Bishop to render a decision. If the Bishop can reach moral certitude that the marriage in question has been invalid from the beginning, he so decrees. The

Bishop's sentence, if he finds for invalidity, will include the remarks of the Defender of the Bond. Both parties and their Advocates are notified of the decision and given the opportunity within 30 days of the date of notification to review the sentence and/or to appeal to the Appellate Court for the Dioceses of Texas or the Roman Rota. The Defender of the Bond during this time frame also has the right to appeal an affirmative decision. If no appeal is introduced within 30 days from the date of the letter notifying the parties of the First Instance affirmative decision, the decision becomes "executed."

If the Bishop cannot reach moral certitude he refers the case to the Ordinary Process.

X. CASE INSTRUCTION: ORDINARY PROCESS

If a case is following the Ordinary Process, any witnesses of the Petitioner and Respondent who have not yet provided testimony will be contacted at this time. This is the stage at which the testimonies of the witnesses and other proofs are gathered by the Tribunal. After one month, the file is reviewed to see whether there is sufficient material for the Judge to publish any Acts not yet known to the parties and render the decision. If there is, the Judge will do so. If there is not sufficient material, the Petitioner's and Respondent's Advocates will be contacted to encourage their clients to get the witnesses to testify. During the case instruction, the Judge may request a psychological evaluation of one or both parties. The Tribunal must make every effort, with the cooperation of the Petitioner, to see that the case proceeds to a timely end.

If it is evident the Court cannot find for invalidity, the Petitioner will be given the opportunity to renounce, in writing, the case to avoid an unfavorable outcome. The Petitioner's Procurator-Advocate can renounce the case on behalf of the Petitioner. The Tribunal then will write the other party to determine whether there is any opposition to a renunciation. Once the Judge accepts the Petitioner's renunciation, the Acts of the process, but not of the case, are extinguished. (Submitted testimony and evidence will be retained.) If no action is taken to renounce, the case may move to judgment, likely with an outcome undesirable to the Petitioner's wishes. Alternatively, if there is no action on the part of either party for at least six months, the case is abated by law and the Acts of the process, but not of the case, are extinguished.

XI. PUBLICATION OF THE ACTS AND CONCLUSION: ORDINARY PROCESS

If a case is following the Ordinary Process, once the Judge is satisfied that everything reasonably available has been gathered for a decision, he decrees publication to both parties all Acts, not yet known, always including the declarations of both parties, and restricting only those Acts he deems inappropriate for view because of the potential for grave harm if so viewed. Even if Acts are restricted from the parties, the Advocates may have access to them but may not disclose to the parties or anyone else any information from them. Both parties as well as their Advocates are given the opportunity to come to the Tribunal within 21 days from the date of the letter informing them of the publication of the acts to review the case file, to refute any statements, to provide additional proofs, etc. After the 21-day period has expired, the case is presented to the Judge to sign the Decree of Conclusion, and the Acts are notarized.

XII. THE DEFENDER OF THE BOND: ORDINARY PROCESS

If the case is following the Ordinary Process, while the Defender of the Bond always is involved from the beginning of the process, once the Decree of Conclusion has been signed, the Defender of the Bond is given the case to write her/his brief. He or she will verify that all procedural requirements are fulfilled and study the merits of the case. The Defender will indicate in her/his brief all that should be called to the attention of the Judge(s).

XIII. DECISION: ORDINARY PROCESS

If the case is following the Ordinary Process, the Judges study the case and render a decision. The sentence, which will include the remarks of the Defender of the Bond, is written, and the Judge(s) signs the sentence. Both parties and their Advocates are notified of the decision and given the opportunity within 30 days of the date of notification to review the sentence and/or to appeal to the Appellate Court for the Dioceses of Texas or to the Roman Rota. The Defender of the Bond during this timeframe also has the right to appeal an affirmative decision. If the decision is affirmative and no appeal is introduced within 30 days from the date of the letter notifying the parties of the First Instance decision the decision becomes “executed.”

XIV. APPEAL

An appeal, whether in regard to an affirmative decision rendered by the diocesan Bishop in the Briefer Process or a decision, affirmative or negative, rendered by a sole Judge or three Judges in the Ordinary Process, can be lodged by either party or the Defender of the Bond. In the case of an affirmative decision by the diocesan Bishop, the appeal goes to the Archbishop of the Archdiocese of San Antonio or to the Roman Rota. In the case of a decision, affirmative or negative, by a sole Judge or three Judges, the appeal goes to the Appellate Court for the Dioceses of Texas or to the Roman Rota.

In any appeal, the exact time frame for a decision by a Second Instance court is indeterminate, and the expenses of an appeal normally are borne by the Appellant. It will be decided in the appeal process whether the appeal has merit and the case either will be returned to the First Instance Court for execution or submitted for ordinary appellate proceedings.

Once a decision is rendered on an appealed case, both parties with their Advocates may come to the Tribunal to review the Second Instance decision.

XV. EXECUTION OF THE JUDGMENT

Once 30 days after the date of the letter publishing the First Instance decision have passed, the decision is considered executed if no appeal is introduced. At this point, either party, unless

otherwise impeded, once all stipulations are fulfilled, can enter marriage in the Catholic Church.

XVI. NOTIFICATION OF THE CATHOLIC PARTIES' PLACES OF BAPTISM AND MARRIAGE

Once a First Instance Decision is executed or there has been an affirmative Second Instance Decision as a result of an appeal, the Catholic parties' places of baptism and marriage are informed of the decision(s) and of any stipulations so the change in status can be noted on the appropriate Church records.

XVII. FULFILLMENT OF STIPULATIONS

If there are stipulations to be fulfilled before a new marriage, the parties, working with their cleric or lay minister preparing them for marriage or with their respective Advocates, will complete the [Marriage Readiness Assessor Release](#) and submit it to the Tribunal so it can transmit to the Assessor the necessary copies from the file. Stipulations will be fulfilled through a professional Marriage Readiness Assessor approved by the Diocesan Tribunal. Proof of paid up child support before remarriage in the Church may be required as part of the stipulations. Once the stipulations are fulfilled, the Tribunal will lift them, if appropriate, so the marriage can take place in the Church.

NOTE: Stipulations placed by the Court must be fulfilled and formally lifted before any marriage can be scheduled in the Catholic Church.

Sample Letter to Respondent

[Respondent's Current Name & Mailing address]

Dear [Respondent]:

I am writing to inform you that [Petitioner's full name (full maiden name if a woman)] has completed a Petition for Investigation of a Marriage Bond with the request that the Tribunal of the Diocese of Dallas review her/his marriage with you to determine whether there might have been something so seriously lacking in the consent exchanged that the marriage never could have bound either of you from the beginning and, thus, could be declared invalid.

We would invite your participation, either as a Co-Petitioner in the process or, at least, as a consenting party to the process. Are you willing to become the Co-Petitioner? Or are you willing at least to consent to the process?

Please let me hear from you. You will find enclosed a brochure explaining the process as well as a form which you may sign to agree to the process as Co-Petitioner. For informational purposes, we also are enclosing a copy of the Petitioner's Agreement.

I look forward to hearing from you by _____ (indicate two weeks from the date of the letter)_____ so we will know whether you are interested in becoming a Co-Petitioner in this Petition, whether you prefer to consent to the process but not to serve as Co-Petitioner, whether you are unwilling either to co-petition or to consent but do wish to participate, or whether you prefer no involvement in the process.

Regardless of your decision regarding involvement in the process to whatever extent, you will be kept fully informed by the Tribunal throughout the processing of the case.

Sincerely yours,

Catholic parish cleric or lay minister