

# DIOCESE OF DALLAS

## Role of the Respondent's Advocate



## **Role of the Respondent's Advocate**

*(Revised December 16, 2015)*

In the Diocese of Dallas the Presiding Judge proposes an Advocate for the Respondent before he/she is contacted. The Respondent then, at any time, can appoint a replacement.

The Respondent's Advocate ensures that at all times the rights of his/her client are protected:

1. To provide testimony
2. To know the proposed grounds
3. To know the formulation of the doubt; that is, after the declarations of the Petitioner and Respondent have been reviewed, the grounds on which the case will be processed
4. To be informed of any proposed change in grounds
5. To appoint a Procurator and/or Advocate
6. To know the names of the witnesses proposed by the former spouse
7. To propose witnesses
8. To review the *Acta* (case file) in the local Tribunal office
9. To review the First Instance Decision in the local Tribunal Office
10. To appeal the First Instance decision to the appropriate Appellate Court including the Roman Rota
11. To review any Second Instance decision in the local Tribunal office
12. To be kept fully informed throughout the processing of the case

The Respondent's Advocate has important rights in the process. Among the most significant are:

1. Exemption from any requirement to testify in the case (cc. 1548, §2, 1°; 1550, §2, 1°). This is akin to the attorney-client privilege of civil law.
2. Participation in the examination of the witnesses, unless restricted by the Judge due to particular circumstances (c. 1550). This includes the right to propose questions for the Judge or Auditor to ask of a witness, but not to ask questions directly unless Tribunal norms provide for that (c. 1561).
3. The right to review the published Acts of the Formal Process case and the right to receive a copy of the Acts (c. 1598, §1).
4. The right to present written or oral briefs in defense of the client's position (cc. 1601-1603), within the reasonable regulations issued by the Tribunal.

The Respondent's Advocate is crucial to the protection/vindication of the rights of the Respondent and to the smooth functioning of the tribunal in its judicial procedures.

The Advocate represents the Respondent to safeguard the rights of that party. He/she need not have a degree in Canon Law but must have completed sufficient Advocate training including updating, be a Catholic of at least 18 years of age and of good reputation, and be approved by the Diocese.

The role of the Respondent's Advocate is several-fold:

1. To know the specific problem in the marriage under consideration
2. To comply faithfully with the procedural norms
3. To help the party prepare his/her declaration, according to the norms of law
4. To represent the party
5. To review the Acts of the case (for purposes of publication, c. 1598 and DC 229)
6. To review the sentence with the Respondent (for purposes of publication, c. 1614 and DC 258)
7. To serve as Advocate in Second Instance, if necessary
8. To carry out other acts that may be opportune or necessary

As most Respondents to a nullity case are unfamiliar with the workings of a tribunal, it is to their benefit to have an Advocate.

It is important in all dealings with the client to exercise attentive listening skills as he/she shares the pain of a broken relationship. The client is opening up wounds that perhaps have not been exposed to anyone else. Putting the client at ease will go a long way in helping the person to tell her/his story fully so the Tribunal can perform its judicial function. Whatever the Advocate learns is confidential to be shared only with the Tribunal.

The Respondent's Advocate does the following:

1. Spends time actively listening to the client
2. Enables the Respondent to understand the allegations and process
3. Assists the Respondent to provide knowledgeable witnesses if he/she desires as well as completed [Character Reference Questionnaires](#) from three character witnesses. While character references do not need to have known either party prior to the marriage, they should be people who have known one of the parties for a number of years in a relationship that would give them some insight into the person's character in order to confirm the veracity of the Respondent regarding her/his confessions/declarations.
4. Assists the Respondent in completing [releases](#) if expert witnesses are to be called
5. Assists the Respondent in completing the appropriate Respondent's questionnaire(s); be sure that all questions have been answered fully