



## Toledo Diocesan Tribunal

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### **INSTRUCTIONS FOR PETITIONERS: ORDINARY MARRIAGE NULLITY PROCESS**

#### **PLEASE READ CAREFULLY.**

Thank you for taking the first step to initiate this process before our Tribunal. Whether you are Catholic, Christian, of some other faith, or of no faith, please know of our gratitude to you for humbly requesting that the Tribunal examine the consent to your marriage. It is our hope that the discovery of the truth will be a healing moment for you as you reflect on what may not have gone as you would have hoped in your relationship. Although this process can be somewhat difficult to understand for many, we hope that you will take advantage of the help of a priest, deacon, or Field Advocate who can help to guide you through it. Please contact your local parish or refer to the Diocese of Toledo Tribunal webpage for more information about appointing an Advocate. We hope that these Instructions and the various other guidance documents and resources on our webpage might be helpful for you as you seek to understand this process. Be sure to read this document carefully so as to be sure that you understand what is required.

Before submitting a petition to the Toledo Tribunal, please verify that at least one of the following prerequisites is applicable:

- Your marriage took place in the Diocese of Toledo
- You currently reside in the Diocese of Toledo
- Your former spouse currently resides in the Diocese of Toledo
- A majority of the evidence relating to the marriage being examined can be found in the Diocese of Toledo

If none of the above prerequisites apply, we cannot accept any petition from you regarding your marriage to your former spouse. Please contact the Diocese in which at least one of the above requirements applies to you, your former spouse, or your marriage.

Before beginning this process in earnest, please take a moment to reflect. The process of petitioning for a formal declaration of nullity of marriage in the Catholic Church can be complex and challenging, but if you can answer the following three questions, you may have a basis to petition for a declaration of nullity from the Tribunal. First, ask yourself, “Do I think that my marriage could be invalid from the start?” This is the fundamental question of this process, and if you submit a petition to begin the process, it is what you will be asking the Tribunal to determine. In order to protect the sanctity and indissolubility of marriage, the burden of proof is on you, the Petitioner, to demonstrate to the Tribunal that your marriage was invalid from the start. *Please note that the marriage nullity process does not deny that a real relationship existed between you and your former spouse, but it does ask you to deal honestly with whether or not the two of you actually did or could consent to a lifelong partnership of life and love which would give rise to a valid indissoluble bond.*

If, however, you do believe that your marriage was or could have been invalid from the start, the next question to be asked is “why?” In the doctrine of the Church, there are a certain number of reasons that a marriage might be invalid from the moment of consent. These reasons are called the Grounds of Nullity. Please consult the **FOUNDATIONS OF NULLITY EXPLANATIONS** document (see the “Guidance Documents” tab on our Tribunal webpage) for more information on what these grounds are and how they might apply to your marriage. In the process of seeking a declaration of nullity, the grounds will ultimately be posed as questions that will guide the investigation

that the Tribunal will undertake to answer the primary question: “Was this marriage invalid from the very start?” Each ground can be alleged against yourself (the Petitioner), your former spouse (referred to in this process as the Respondent), or against both of you (referred to as “the parties” in this process).

Once you have some idea of which ground or grounds might apply to your marriage, the final question to be asked is “how will I prove this ground?” That is where your own testimony, that of witnesses, and various other proofs come in to play. Each ground has different requirements for it to be considered proven by the Tribunal, but all Petitioners must be prepared to give testimony about their life, the Respondent’s life, and the marriage. You must also be prepared to name witnesses who can help us to verify the statements that you will make. Please be sure to contact these witnesses ahead of time to confirm that they are willing to testify on your behalf. If even one of the alleged grounds is declared to have been proven by the Tribunal at the end of this process (an AFFIRMATIVE decision), and neither the parties nor the Defender of the Bond appeal that decision, the declaration of nullity is executed and both parties are declared free to marry in the Catholic Church.

Now that you have given these three questions some thought, you are ready to begin the process of petitioning for a declaration of nullity from the Tribunal. We strongly advise you to discuss your situation with a priest, deacon or one of the Field Advocates named on the Tribunal webpage or located in your parish before beginning your petition. Please note that this petition replaces all previous editions. *Do not submit a petition which does not indicate the 2020 revisions; old forms will be rejected at outset and returned to you.* Please also note that you and the Respondent (your former spouse) have equal rights in this process, since it is an examination of a mutual consent and impacts you both equally. The Tribunal will be working very hard to ensure that all of your rights and those of the Respondent are safeguarded and protected.

In order to begin your petition, you will find a number of important forms which must be filled out to begin this process. Each of the forms is required by canon law (Church law) so that we can perform our work promptly and efficiently, guaranteeing all of your rights in the Church. For a formal declaration of nullity of consent to marriage, the following forms are required to be submitted at the outset:

1. **Appointment of Procurator/Advocate Form** – as this process can often be technical and confusing for many, we highly encourage you to fill out your petition with an Advocate’s assistance. A Field Advocate in our diocese is someone trained to help you prepare the documents for your petition and guide you through the process pastorally. A Procurator is someone who can officially place actions in your name throughout the process. You can appoint someone as either Procurator, Advocate, or both. Check the appropriate boxes to select which you would like. Please complete this and the other forms together with a priest, deacon or one of the Field Advocates named on the Tribunal Web Page or located in your parish. The Diocese of Toledo does not currently charge parties any fee for the assistance of a Procurator/Advocate.
2. **Formal Petition (Libellus)** – this is where you will formally allege that your marriage was invalid at the outset, explain why you think this, suggest a ground or grounds to the Tribunal, and give a list of the witnesses and proofs that you think will help make your case. Please type into the editable fields in Microsoft Word to complete your *libellus*. Please note that this document will be sent in the mail to the Respondent (your former spouse), so be mindful of what you write there. It does not need to be lengthy, but it does need to indicate the reasons you believe your marriage to be invalid in an objective and summary fashion. *Please see below for more information about the libellus.*
3. **Application Forms** – this is where more detailed information will be required from you regarding your marriage and your petition for a declaration of nullity. Please be sure to fill out every line of this form and to include your signature at each indicated point.

Be sure that each form is filled out fully since missing information means delays and the possible rejection of your petition. Feel free to answer these questions on the computer, print the application with your answers, sign the forms

where indicated, and return the application to your Advocate to be sent to the Tribunal. If you prefer to prepare the forms in long hand, be sure to print answers so that they are legible. Illegible submissions will be returned, so be sure to follow these directions. Do not e-mail any of these forms to the Tribunal; they should be mailed directly to the Tribunal either by you or from the parish by your mandated Advocate with all required documents. Do not print the application on both sides of the page.

You must also submit some official documents pertaining to the civil status of the marriage under examination, a list of which can be found on the Application Checklist at the beginning of the Application Forms. Be sure to send the right documents or the cause will be delayed while we return everything to you and ask for the correct legal documentation.

Please return everything to your Advocate so that you can review it together and make sure that everything we need here at the Tribunal has been included. Your Advocate should also go over the check list of supporting documents to make sure nothing is missing. Missing forms and documents can delay the acceptance and adjudication of your petition.

If you have any questions along the way toward completing this petition and application, please do not hesitate to reach out to your Advocate. For any additional information, please feel free to contact the Tribunal at 419-244-6711.

### **IMPORTANT INSTRUCTIONS FOR THE *LIBELLUS*:**

You and your Advocate should complete the Formal Petition – what we call a *libellus* – together. There, you will provide a few basic facts about your marriage in your own words, explain the reasons you think your consent was invalid from the moment of the wedding, and choose the grounds of nullity of consent upon which you think the Tribunal should examine that consent. It is helpful to the Tribunal for you to reflect on these grounds and tell us which one or ones you think are most applicable to you and/or the Respondent. It is always wise to be humble and self-reflective throughout this process; often, the most relevant ground of nullity is one that applies to you, the Petitioner.

Later, the Judicial Vicar will make a final decision about what ground or grounds will officially be examined in this process. Once this decision is made, and after you and the Respondent have been given time to respond to it, all subsequent investigation into the marriage will be done in the light of that ground or grounds. Therefore, it is very important that you think seriously about which ones may be applicable to your marriage and explain why you think so in your initial *libellus*. Please note that because this process deeply impacts both you and the Respondent, the *libellus* that you compose will be sent to the Respondent so that his/her rights are protected and he/she can be made aware about what you are alleging about your marriage. Therefore, the *libellus* should be as concise, objective, respectful, and honest as possible about the facts within it. Do not include any name-calling, inflammatory language, or false statements.

Feel free to reference the Sample *Libellus* provided on the “Guidance Documents” tab on our Tribunal webpage for an example of what this might look like.

### **IMPORTANT NOTE REGARDING CONFIDENTIALITY:**

Other than the ministers of the Tribunal who are involved in this cause, only you and, if he or she wishes, the Respondent, are permitted to review testimonies and acts of this process. This information is strictly confidential and the members of the Tribunal staff treat this with utmost seriousness; we expect you and the Respondent to do the same. However, please be aware that this confidentiality is not equivalent to the seal of confession or the priest-

penitent privilege recognized by some civil jurisdictions. Therefore, the aforementioned tribunal staff and officials are not exempt from moral and civil law obligations to report any reasonable suspicions about present and ongoing abuse or neglect of minors and vulnerable adults if it should be revealed to them through this process.

### **IMPORTANT NOTE REGARDING CONSULTATION WITH A PSYCHOLOGICAL EXPERT:**

If it is determined that consultation with a court-appointed psychological expert is necessary, you and your former spouse will be made aware of this prior to the expert's appointment for the case. This person is an official of the Tribunal; his or her job is to advise the Judge on psychological matters which he does not have expertise in. As with all Tribunal officials assigned to your case, you will have the opportunity to raise an objection to the person appointed if you have a serious reason for doing so. The psychological expert will review the case file to give an opinion that will help the Judge to make a decision in the case. The expert cannot and will not arrive at a diagnosis of any specific mental illness or personality disorder based on this review, and the Judge will weigh his or her comments accordingly.

If you have ever consulted with a psychological expert of some sort, it might be helpful to the Tribunal to be able to contact this person and hear from him or her about your meetings. If you would like this to happen, please put down his or her name and contact information on the "Petitioner's Witnesses" page of the Application forms. Please note that prior to contacting this person for consultation, the Tribunal will send a Consent for Release of Information form to you to be completed.

You, your former spouse, any Procurators/Advocates either of you may appoint, and Tribunal officials at every potential stage of the trial will be able to read the above information from any psychological experts consulted by the Tribunal. You and your former spouse are authorized to read this information only under the supervision of Tribunal authorities and to the extent that it is included in the text of the definitive sentence.

### **IMPORTANT NOTE REGARDING UNITED STATES CIVIL LAW:**

As you begin, we want to remind you that marriage is a natural/religious celebration *and* a civil contract. Our process does not have any effect on the civil contract in the United States. Furthermore, our process *does not nullify children*, or in any sense make them illegitimate or otherwise eliminate any civil or natural obligations a parent has toward children. In fact, our law requires us to remind the parties who obtain an affirmative declaration of nullity of consent that *all of their obligations to children remain in force* (c. 1691 §1). Our law also requires us to remind both parties that any civil obligations to a former spouse are in no way eliminated by what the Tribunal does or decrees, and all of those civil obligations must be met before a subsequent marriage in the Catholic Church can take place (c. 1071 §1, 3°).