



Toledo Diocesan Tribunal

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INSTRUCTIONS FOR PETITIONERS: JUDICIAL MARRIAGE NULLITY PROCESSES

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 lay minister 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 a Procurator. 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.

In order to ascertain which process should be used, please refer to the WHICH PROCESS SHOULD I USE? document and flow chart. If you think a judicial process (ordinary process, documentary process, or abbreviated process before the bishop) may be required, please continue reading this instructional document. Otherwise, please see the Pauline privilege tab or the application for a decree of absence of form for information about what is required for those processes.

The ordinary process must be used when documentary evidence is not sufficient to prove the nullity of the marriage and witness testimony is required. This process can be used to investigate any of the grounds of nullity.

The documentary process is much shorter than the ordinary process, but it can only be used when some sort of public certified document can prove the existence of an impediment or defect of form.

The abbreviated process is a rare process that is judged by the Diocesan Bishop himself. It is theoretically shorter than the ordinary process, but this may not be by a significant margin if there are difficulties with coordinating the schedules of all involved. It can be used for any of the grounds of nullity, but there are several additional requirements that you should know before choosing to submit a petition for this process. They are the following:

1. You must be able to prove at the outset that the nullity of your marriage is *manifest*. The law requires that there be “circumstances of things and persons, with substantiating testimonies and records, which do not

demand a more accurate inquiry or investigation and which render the nullity manifest” (c. 1683, 2°). This means that in your initial petition there is overwhelming support for a certain ground/grounds of nullity which is corroborated by reliable documentary evidence. *All of this must be present* in order to support the petition and allow the Tribunal and the Bishop to be in a state of high probability that what the petition says is true without much further investigation. Certain situations in which the invalidity could be manifest may include the following:

- a. A defect of faith which can generate simulation of consent or error that determines the will;
 - b. A brief conjugal cohabitation;
 - c. An abortion procured to avoid procreation;
 - d. An obstinate persistence in an extra-conjugal relationship at the time of the wedding or immediately following it;
 - e. The deceitful concealment of sterility, or grave contagious illness, or children from a previous relationship, or incarcerations;
 - f. A cause of marriage completely extraneous to married life, or consisting of the unexpected pregnancy of the woman, physical violence inflicted to extort consent, the defect of the use of reason which is proved by medical documents, etc.
 - g. However, the existence of one or more of these situations is not enough on its own to render the invalidity manifest, but must exist within circumstances and with documents that favor a particular ground of nullity very strongly from the initial petition.
2. The Respondent, your former spouse, must agree to the process either by joining you in the petition or by giving explicit consent for the use of the abbreviated process. This is because this process involves an abbreviation of both parties’ right of defense and other procedural rights that are otherwise guaranteed by the ordinary process. In order to obtain the Respondent’s consent, you must ask him or her to fill out the “Consent for Use of the Abbreviated Process” box at the bottom of your formal petition (*libellus*). Information about the *libellus* is explained in more detail below.

INITIAL REFLECTION QUESTIONS

Before beginning any of the above judicial processes in earnest, please take a moment to reflect. The judicial 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 the wedding. These reasons are called the Grounds of Nullity. Please consult the GROUNDS 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, documents, and various other proofs come in to play. Each ground has different requirements for it to be considered proven by the Tribunal, but Petitioners must be prepared to give testimony about their life, the Respondent’s life, and the marriage if necessary. You may also need 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.

BEGINNING A PETITION

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 lay ministers 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 that was revised prior to 2020.* 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 Form** – as this process can often be technical and confusing for many, we highly encourage you to fill out your petition with a Procurator’s assistance. A Procurator in our diocese is someone trained to help you prepare the documents for your petition and guide you through the process pastorally. A Procurator can officially place actions in your name throughout the process. The Diocese of Toledo does not currently charge parties any fee for the assistance of a Procurator.
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 or other proofs that you think will help make your case. Please type into the editable fields in the Microsoft Word document that corresponds to the correct judicial process 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 Procurator 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 Procurator 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. The documents should be originals obtained within the last six months if possible. We will return original documents to you by mail once we have verified their authenticity and made copies for the case file.

Please return everything to your Procurator so that you can review it together and make sure that everything we need here at the Tribunal has been included. Your Procurator 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 Procurator. For any additional information, please feel free to contact the Tribunal at 419-244-6711 or tribunal@toledodiocese.org.

IMPORTANT INSTRUCTIONS FOR THE *LIBELLUS*

You and your Procurator 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; sometimes, 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 for the ordinary process of marriage nullity.

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 or licensed counselor 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°).