

Canonical Procedure for a Formal Case

Diocese of Wilmington

1. Formal cases challenges the consent “I do” aspect of the marriage ceremony. Consent makes the marriage. Inadequate consent due to poor judgement, lack of knowledge of marriage and its essential elements or intention against children, permanency and fidelity are ways in which the consent of the marriage can be challenged.
2. The Petitioner, the person asking for the declaration of marriage nullity, files a petition (includes a questionnaire, an essay and the documents – marriage certificate from the church and the civil law jurisdiction, and a copy of the baptismal certificate of the Catholic parties). The Non-Petitioner is referred to as the Respondent.
3. The case begin with a Petitioner meeting with a priest or deacon from his/her parish or from another parish and explains the reasons why he/she believes the marriage is invalid (remember the validity of the marriage can only be challenged when there has been inadequate expression of consent). For example, Tom marries Joan and Tom intends to never have a child by Joan and never informs her of his intention that no child will be born from the marriage. Becoming aware of this intention of Tom during the marriage, Joan says I want children and Tom firmly says no. The Petitioner can explain to the priest or deacon that Tom never wanted a child and so the marriage came to an end.
4. Following a meeting with a priest or deacon from the parish, the Petitioner then calls the Tribunal and requests an advocate who will assist her/him prepare the canonical petition referenced above and also supports the Petitioner through the Tribunal process. All advocates are very well formed and experienced in the Tribunal process and the canonical grounds to challenge the consent of the marriage.
5. The composition of the petition is :
 - a. The **Facts Sheet** provides the essential dates and places, for example, the baptismal date and place of a party’s baptism.
 - b. **Questionnaire** which assists the Petitioner and the Advocate to identify potential grounds for the marriage nullity process.
 - c. The **Outline for the canonical petition** and the one page narrative essay.
 - d. The **required documents** which are: the baptismal Certificates of both parties (Petitioner and Respondent) a copy of the civil marriage certificate and the Catholic Church Certificate of Marriage and, finally, the final decree of divorce. For Catholic you can get a certificate of your baptism from the church where you were baptized. If the Respondent is Roman Catholic and the Petitioner does not know the place of the baptism, call the Catholic Church where the marriage was celebrated and ask the parish secretary to look up the marriage registry for the place and date of the Respondent’s church of baptism is listed. Call the church of the Respondent’s baptism and explain the certificate is needed for a pending case before the Wilmington Tribunal.