

**PLEASE TAKE TIME TO READ THE
GENERAL BACKGROUND
INFORMATION BROCHURE BEFORE
READING THIS BROCHURE.**

What is a Petition for a Declaration of Nullity?

A Petition is a formal request made to a Diocesan Tribunal (local Church court) to perform a particular action or to hear a specific case.

A Petition for a Declaration of Nullity is a formal request made by one of the parties in a marriage that a Diocesan Tribunal study the possible nullity of his/her marriage. Through a pre-determined legal process, the Tribunal will study the marriage in question and, at the end of the study, will respond to the question: “*Has the nullity of the X-Y marriage been fully proven on the grounds of Z?*” This question can be answered in the affirmative or the negative, but it must be answered one way or the other. In other words, at the end of the process, the legal doubt concerning the validity of the marriage in question **must** be resolved in a document (the Definitive Sentence or the Decision) written by the Judge.

In most tribunals in the United States, the process used to arrive at the above-mentioned conclusion is handled either by individual interviews or by written correspondence – sometimes by a combination of the two. It is not an adversarial scenario where the parties and their witnesses gather together in one place and confront each other (like a civil courtroom). It would be highly unusual for any of the parties and/or witnesses to actually meet each other face to face during the process.

Who Will Be Handling My Request?

There are a number of people who will be handling your case file during this process. Among these are:

Judge: This individual (a priest or deacon) with a degree in Canon Law is appointed by the local Bishop to direct the annulment process. During this process, the assigned Judge will be responsible for the appropriate procedural steps in the process: for periodically reviewing your case file, for setting the grounds on which the alleged nullity of the marriage will be studied, for reviewing the documents and testimony relative to this process, and, ultimately, for deciding whether or not the alleged nullity of the marriage in question has been proven.

Procurator-Advocate: This person, approved by the local Bishop, works with either the Petitioner or the Respondent (depending upon the appointment) in order to assist him/her in accurately presenting his/her views and recollections to the Tribunal. A different Procurator-Advocate will be appointed for each party. In order to be represented by a Procurator-Advocate, a party must make a written request.

Auditor: The Auditor is a person who interviews the parties and/or their witnesses. Sometimes the Auditor will also be the Judge of the Case or a party’s Procurator-Advocate.

Defender of the Bond: This person, who has a degree in Canon Law, is appointed by the local Bishop to speak in favor of the bond of matrimony which is being “attacked” by the Petitioner’s allegation of nullity. Just before the Judge writes the *Definitive Sentence*, the Defender of the Bond submits his own opinion concerning the validity of the marriage in a written document.

Ecclesiastical Notary: The Notary is responsible for keeping the case files orderly, accurate, and current

and for being sure that correspondence and notifications are mailed in a timely manner.

What Are the Steps Involved in the Process?

The process has three principle stages: ① the introduction, ② the instruction, and ③ the conclusion.

① **The Introductory Phase:** In this phase, the Petitioner obtains (from his/her parish) and completes the *General Preliminary Questionnaire* and the *Personal and Marital History*, the parish will submit your paperwork on your behalf, the Judge and other court officers are appointed, the Petitioner is interviewed under oath, the Petition is formally accepted or rejected, the Respondent is contacted, and the grounds on which the possible nullity of the marriage will be studied are established.

② **Instruction:** During this second phase, the witnesses named by the Petitioner and Respondent are contacted. If you have named a doctor, psychiatrist, psychologist, or professional counselor whom you consulted in the past, we will ask you to sign a release form. After all the testimony has been gathered, the Judge will determine if there is enough testimony to bring the case to conclusion. Sometimes, the Judge may consult an Expert Witness, or you will be asked to meet with one, for a personal interview or even some testing. Once a case is concluded, it is “published” (as the Tribunal calls it) and the Petitioner and the Respondent are notified. They may come in to the Tribunal Office to review the testimony that has been collected and not withheld. The Defender of the Bond and the Procurator/Advocate(s) are also notified at this point.

③ **Concluding Phase:** In this final phase, the Defender of the Bond submits his recommendations and the Judge makes his decision and writes the Definitive Sentence. Afterwards, the parties and the

Defender of the Bond are informed of the Judge's decision, which they have the right to appeal, if they so wish. If no formal appeal is made within the time limit of 15 days against an affirmative sentence, the Judge's decision will be executed and granted, and both parties are free to prepare for a new marriage. If someone does appeal a sentence, it, along with the entire acts of the case, will be sent to our Appellate Court. If the Appellate Court confirms our affirmative decision, both parties are then notified by mail. The process is complete and the parties are free to prepare for a new marriage.

Who Can Be Named as Witnesses?

Every case requires witnesses. **The most valuable witnesses** are those **relatives** (especially parents and siblings) **friends, neighbors, and co-workers** who **knew both the Petitioner and the Respondent both before and during the marriage**. Since each witness is to respond to the Tribunal's questions, any witness listed must be willing to testify. A prospective witness should have first-hand knowledge of the parties and their marital relationship. Second-hand knowledge, hear-say evidence, and character witnesses are of very limited use to a tribunal. Witnesses must not be coached in any way. Before you name someone as a witness, please contact him/her and obtain that person's consent to serve as your witness. Usually three or four knowledgeable witnesses are sufficient.

Please note that when witnesses give testimony, either orally or written, they have the option of indicating whether or not they want to withhold their testimony from the Petitioner, the Respondent, or both. However, if a witness withholds his/her testimony, Church law forbids the Judge to use any information contained uniquely in the withheld testimony when he makes his final decision and writes the Definitive Sentence.

How Long Does the Process Take?

It is impossible to predict the length of time because of a number of variable factors. No two cases are the same. However, generally speaking, this process takes approximately twelve months from the time of the Petitioner's interview. However, if the decision is formally appealed, it can take longer.

When Can a Marriage Date Be Set?

No wedding date can be set, until the Petitioner receives written notification from the Fall River Tribunal that a Declaration of Nullity has been issued.

No plans for a future marriage should be made before that time.

Is There a Fee?

The Tribunal is heavily subsidized by the Diocese of Fall River. The Petitioner is, however, asked to make a total contribution to the Tribunal of \$275 to help defray a portion of the administrative costs incurred in processing the case. Furthermore, if the opinion of an expert witness is needed, additional costs will incur for his or her services. *No annulment is ever denied or delayed because a Petitioner cannot make this contribution.*

Further Questions?

As you can see, the process of declaring a marriage invalid is lengthy and the investigation in-depth. Simply because you apply for an annulment does not guarantee a favorable decision. It is the sincere intention of the Tribunal that this entire process be, for you and for all involved, a time of healing and insight, a healing of the pain and guilt that you may have experienced as a result of the broken marriage, and an understanding of the real reasons for the breakdown of the marriage. If you have any questions or concerns, please do not hesitate to contact your parish sponsor (priest/deacon/pastoral associate) or the Diocesan Tribunal.

Revised 12/31/15
Very Rev. Jeffrey Cabral, J.C.L.
Judicial Vicar

MARRIAGE ANNULMENTS: Information for Petitioners



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