

Declaration of Invalidity of Marriage

Archdiocese of Hartford

What is marriage?

The Catholic Church teaches that marriage is, by God's plan, an enduring and exclusive partnership between a man and a woman for the giving and receiving of love and for the procreation and education of children. From a marriage properly celebrated arises a bond between the spouses which by its very nature is perpetual and exclusive.

For those who have been baptized, a valid marriage is also a sacrament. The Catholic Church also teaches that every sacramental marriage that has been consummated is indissoluble. This is in accord with the Sacred Scriptures and centuries of Catholic tradition.

What is an annulment?

An annulment is a declaration issued by the Church, after a careful investigation of the facts, that some radical defect existed at the time of the ceremony which impeded the marriage bond from being formed. An annulment is not a favor or a privilege, but a declaration of the truth about the marriage by a Judge who reaches moral certitude concerning the facts and testimony in the case. Although not every marriage is a sacrament, every marriage properly celebrated and entered into without impediment is presumed in law to be valid.

What does it mean to declare a marriage invalid?

A presumption may be overturned when the opposite is proved to be true. If the evidence shows that from the beginning a particular marriage suffered from a radical defect, the original presumption of validity no longer holds. Such a marriage is invalid. It bears repeating that, in order for the Church to declare such a marriage invalid, a radical defect must be present *from the beginning*, that is, at the time of the wedding ceremony. No defect that might arise *during* the marriage would have the power of invalidating a valid marriage.

It is important to understand the meaning of such a declaration. It does not deny that a relationship existed, nor does it imply that the relationship was entered with ill will or moral fault. Rather, the declaration is a statement by the Church that the consent exchanged by the couple lacked at least one of the elements essential for a binding and lifelong union.

Are there any civil effects to the declaration?

There are absolutely no civil effects to such a declaration in the United States. It does not affect in any manner the legitimacy of children, property rights, inheritance rights, etc. It is simply a declaration from the Catholic Church that a particular union, presumably begun in good faith and thought by all to be a valid marriage, did not, in fact, give rise to a perpetual bond. There is no attempt in these proceedings to impute guilt or to punish persons. The purpose is to clarify a person's status in the Church.

What is the purpose of the Tribunal?

Church law calls for the existence of a tribunal in every diocese of the world. The Metropolitan Tribunal of the Archdiocese of Hartford is a staff of specially trained and experienced priests, religious and lay persons who offer assistance to parties who have reason to doubt the validity of their marriage. The Tribunal then investigates the marriage, and, on completion of the investigation, declares whether or not invalidity has been proved.

How does one request a declaration of invalidity?

The process is begun when the Petitioner completes a Petition and a marital history form and sends them to the Metropolitan Tribunal. This form, which asks for information concerning the background of each party and for details about the courtship and married life, is available from the Tribunal or from the Archdiocesan web site: www.archdioceseofhartford.org. You may wish to seek the assistance of your parish priest or deacon in completing this form. You may also request the assistance of an Advocate directly from the Metropolitan Tribunal.

The petition and history are reviewed by one of the Judges. If sufficient evidence is provided in the marital history to suggest possible grounds for a declaration of invalidity, the Petition will be accepted.

If the Petition and marital history do not provide adequate basis for proceeding, the Petition will be rejected and the Petitioner so informed.

What about the Respondent (former spouse)?

Following the acceptance of the Petition, a letter of explanation and a copy of the petition is sent to the Respondent who is then given the opportunity to offer testimony and name witnesses. This is required by the universal law of the Catholic Church in order to protect the rights of both parties to the marriage. While the Respondent does not always exercise this right to participate, the law requires that the person be given the opportunity. It is the Metropolitan Tribunal who contacts the other party.

It is important, therefore, for the Metropolitan Tribunal to have an accurate, current address for the Respondent. If this is not available, then the Tribunal must have the last known address together with the address of a family member through whom the Respondent may be contacted. Please note that it will not be necessary for the Petitioner to contact the Respondent, although the Petitioner may choose to notify the Respondent that he/she will be contacted by the Metropolitan Tribunal.

What about witnesses?

One of the items to be completed on the Petition and marital history is the names of witnesses, preferably people knowledgeable about the couple during their courtship and immediately after the marriage ceremony. Only the names of those who are willing to offer information should be given. After the petition is accepted, these witnesses are contacted by mail with the request that they provide, in writing, information they know about the couple. Their notarized affidavits should be sent directly to the Metropolitan Tribunal. It is very important that you urge your witnesses to respond as soon as possible. Failure to respond in timely fashion will unduly prolong or even curtail the process.

What about the Defender of the Bond?

Appointed by the Judicial Vicar at the outset of a case, the Defender of the Bond points out to the Judge any procedural irregularities, any weaknesses or inconsistencies in the testimony, and any reasons why the validity of the marriage should be upheld. The participation of a Defender of the Bond is required in all cases.

What about the use of Expert Witnesses?

In some cases, the Tribunal Judges will consult an expert witness before reaching a decision in the case. This is typically done in cases in which the grounds require a psychological interpretation of the testimony in order to reach a decision. There is a small group of mental health experts who regularly work with the Metropolitan Tribunal as consultants. The input of the expert witness is based on a thorough review of the written testimony in the case. In some cases, however, the Petitioner or Respondent may be asked to meet with the expert for a personal interview. The input offered by the expert witness is considered a confidential communication between the professional and the Judges.

What about records?

The Petitioner will supply the Tribunal with records of the baptism of spouses who are baptized Catholic or another Christian denomination and of the marriage and divorce. Prior to the final decree of civil divorce, no petition for a Church declaration of invalidity will be considered by the Tribunal.

When is the case decided?

When all the documents and testimony (known as the Acts of the case) have been received, the Judge will permit the Petitioner, the Respondent and any duly appointed advocate to inspect, at the Tribunal, the Acts of the case. In rare situations and in order to avoid a most grave danger, the Judge may withhold particular sections of the Acts. Following the opportunity to inspect the Acts, both parties may then submit further evidence if so desired. When the parties declare they have nothing further to add, or when the Judge decides the case is sufficiently instructed, the evidence is considered closed.

When the Judge has reached a decision based on the testimony, that decision is put in writing in a document known as the Definitive Sentence. The decision of the Judge is made known to the parties.

Is the Tribunal's decision final?

Church law requires an automatic appeal of affirmative decisions.

If the decision is affirmative (i.e. the marriage is, in fact, proved to be invalid), it has no effect until a second affirmative decision is issued. The ordinary Appellate Tribunal for the Archdiocese of Hartford is the Diocesan Tribunal of Providence, Rhode Island. Affirmative decisions are automatically forwarded to this Tribunal for review unless one of the parties or the Defender of the Bond lodges a formal appeal. A formal appeal may be brought before either the Diocesan Tribunal of Providence or the Roman Rota at the Vatican directly. Such formal appeals may involve additional fees. A formal appeal must be made in writing within three weeks of notification of the first decision. When the work of the Appellate Tribunal is completed, the parties will be notified of the final decision by the Metropolitan Tribunal.

If the first decision is negative (i.e. the marriage is not proved invalid), either the Petitioner or Respondent may appeal the decision either to the Diocesan Tribunal in Providence or to the Roman Rota. Should the Court of Appeals reverse a decision in a given case, the Court of Third Instance would be the Roman Rota at the Vatican.

Can a party who has obtained Declaration of Invalidity marry in the Catholic Church?

If a marriage is declared invalid and there are no restrictions concerning marriage, the usual procedure of preparation may be started with the local parish priest.

If a marriage is declared invalid due to a cause that may be ongoing, a marriage cannot be permitted until it has been demonstrated that the cause which invalidated the first union has been removed.

No new marriage may be scheduled in any Catholic parish until the final Decree of Invalidity has been issued.

Is there a fee for Tribunal services?

In deference to the people of the Archdiocese of Hartford who subsidize the budget of the Metropolitan Tribunal, we believe it is fair that those who avail themselves of the services of this office assist in bearing part of the financial burden. Therefore, the following schedule of fees has been established. The filing fee is \$75.00. Should the case reach the next level, (the gathering of witness testimony), a fee of \$275.00 is charged; if the case does not reach that level, the fee is not applicable. When the investigation is completed and a decision has been reached by the Metropolitan Tribunal, there is a final fee of \$150.00. Again, if the case does not reach that level, the fee is not applicable.

Please note, however, that if one cannot afford to pay all of the fees, application may be made to the Metropolitan Tribunal for consideration of a reduction (or in cases of genuine necessity, a waiver) of fees. At no time should financial considerations discourage any person from exercising the right to receive a just hearing from the Metropolitan Tribunal.