

Formal Case

What is a formal case?

A formal case is the normal procedure used by the Tribunal to investigate a marriage and decide whether or not that marriage can be proved invalid. The advantage of a formal case is that it is designed to investigate complex cases. The disadvantage of a formal case is that it has more steps and can take longer than other procedures.

How long does a formal case take?

The duration of the first stage of a formal case basically depends on the petitioner and advocate. However, during the first stage the petitioner writes answers to a comprehensive questionnaire, and for many petitioners that takes several months. After the first stage of a formal case is complete, the remaining stages usually take 12-18 months. The Tribunal cannot guarantee the length of time it will take to handle a case, because some important factors that affect the timeline are not under the Tribunal's control. Nor can the Tribunal guarantee that the petitioner will end the process with a declaration of nullity, thus enabling the petitioner to marry in the Church. Thus, petitioners should not set wedding dates until the Tribunal process is complete.

What are the basic stages of a formal case?

There are four stages.

1. **The Application Stage** In the Application Stage the petitioner and advocate work with the Tribunal to complete the paperwork needed to start the formal case.
2. **The Acceptance Stage** In the Acceptance Stage the Tribunal accepts the case and attempts to contact the respondent.
3. **The Investigation Stage** In the Investigation Stage the Tribunal seeks out the information needed to give a decision.
4. **The Decision Stage** In the Decision Stage the Tribunal discusses the case, gives a decision, and notifies the petitioner and respondent of the decision.

After the Decision Stage, the petitioner can appeal against the decision if he or she believes the decision was unfair. The respondent and the Defender of the Bond have the same right. If anyone appeals, an appellate court repeats steps 2, 3 and 4. If no one appeals, the Tribunal's decision becomes effective.

What happens during the Application Stage?

Here are the steps in the Application Stage.

1. The petitioner meets with advocate to discuss what happened in the petitioner's past marriage.
2. The petitioner and advocate fill out the "Tribunal Application" form and send it to the Tribunal.

3. The Tribunal reviews the Tribunal Application form to see if a formal case is needed, or if some other procedure can be used.
4. If a formal case is needed, the Tribunal sends the petitioner paperwork to complete. The most important part of the paperwork is the comprehensive questionnaire.
5. The petitioner writes answers to the questionnaire and completes the other forms.
6. The petitioner and advocate meet to make sure that the petitioner has given complete and detailed responses to the long questionnaire, and that all the other necessary documents are assembled.
7. The petitioner and advocate send the completed paperwork to the Tribunal.

The Application Stage's duration primarily depends on how long it takes the petitioner to complete the comprehensive questionnaire. The Application Stage commonly is completed over several months.

How do I fill out the libellus form?

Check the applicable grounds for the petitioner and/or respondent. Write a short and general summary of what will be proven. Have the petitioner read and sign the completed form, and you also sign the form.

Remember: the completed libellus form is sent to the respondent. Make sure the petitioner knows what is on the libellus form, because the former spouse will read it. It is not necessary to enter into detail on the libellus form. For example, if you are using 1095, 2° as grounds for the case, you might simply write, "The testimony of the petitioner and witnesses will show that the parties were seriously unready for marriage."

Remember: the judge will review the petitioner's questionnaire and select the grounds that are most likely to be successful, even if those grounds were not marked on the libellus form. If you are putting more than two or three checkmarks on the libellus form, you are probably putting too many. Just check the one, two or three grounds that you and the petitioner think will be the strongest case.

Where can I learn more about the grounds listed on the libellus form?

You can find the text of the canons cited on the libellus form [on the Vatican website](#).

Here are three helpful resources for understanding the grounds listed on the libellus form. Each resource goes over all the grounds and explains them.

- From the Diocese of Baker: <https://dioceseofbaker.org/grounds-for-nullity>
- From the Diocese of Bismarck: <https://bismarckdiocese.com/documents/2017/12/GroundsExplanation.pdf>

What is good information to include in my one page advocate summary?

Point out the parts of the petitioner's questionnaire that are particularly important—but do not feel the need to summarize the whole case or rewrite the story the petitioner has written!

Remember that your advocate summary is optional. If there will be a long delay in sending in the case because you have trouble finding time to write the summary, simply to send in the case without the advocate summary. That will be better for the petitioner and acceptable for the Tribunal.

Often the most helpful information you can give the Tribunal is information about pastoral situations about which the Tribunal is unaware. For example, tell the Tribunal if the petitioner has reason to think that the respondent will be angry to hear about the case. It is also useful to tell the Tribunal your impressions of the petitioner, especially any information about their ability to communicate. For example, tell the Tribunal if English is not the petitioner's first language, or if the petitioner communicates much better in conversation than in writing.

What if my petitioner has few useful witnesses?

Do the best you can. While ideally the petitioner will have three to five witnesses who knew the parties well at the time of the wedding, the Tribunal realizes not all petitioners have ideal witnesses. Try to find three witnesses who have at least some knowledge of the courtship and marriage. In a pinch, choose witnesses who know the story of the petitioner's marriage, even if they met the petitioner only after the wedding. Does the petitioner have good communication with anyone from the respondent's family or circle of friends? Sometimes relatives of the respondent make excellent witnesses.

Relatives of the petitioner can make fine witnesses. Remember that you can ask the judge to interview witnesses rather than sending witnesses a questionnaire. That can be helpful if the petitioner has someone who would be a good witness, but the petitioner fears that they would be unwilling or unable to write answers to questions.

If you can't find even two witnesses, call one of the judges at the Tribunal to discuss the case. The judge can tell you if it will be possible to proceed using character witnesses to support the petitioner's case. Character witnesses are easier to find than regular witnesses, because character witnesses only need to know whether or not the petitioner can be trusted to tell the truth.

What happens during the Acceptance Stage?

Here are the steps in the Acceptance Stage.

1. The Tribunal notifies the petitioner and advocate that the case has been accepted. The notification also tells them the grounds which the Tribunal plans to investigate.
2. At the same time, the Tribunal notifies the respondent that the case has been accepted. The Tribunal sends the respondent the libellus, and tells the respondent what grounds the Tribunal plans to investigate. The Tribunal asks the respondent to tell the Tribunal whether or not the respondent agrees with the grounds and whether or not the respondent wants to participate.
3. If the Tribunal does not hear from the respondent after three weeks, the Tribunal again tries to contact the respondent. If after another month there is no response, the Tribunal proceeds forward without the respondent's participation.
4. Once the Tribunal has heard from the respondent, or after the Tribunal has seen that the respondent will not respond, then the Tribunal tells the petitioner, advocate and respondent what grounds will be investigated. This step is sometimes called "the Joinder" or "the Joinder of the Issue" or "the Formulation of the Doubt".

The duration of the Acceptance Stage depends on the volume of cases arriving at the Tribunal and whether or not the respondent replies. If the respondent does not reply, the Acceptance Stage can take 3 months.

How does my petitioner benefit when the Tribunal has a good address for the respondent?

The Acceptance Stage shows the importance of giving the Tribunal a good address for the respondent. If the United States Post Office tells the Tribunal that the respondent's address is not the correct, the Tribunal will contact your petitioner seeking a good address for the respondent, and your petitioner's case will be delayed.

What if my petitioner fears the respondent?

The Tribunal must attempt to contact the respondent. If the Tribunal does not attempt to contact the respondent, the Defender of the Bond will demand that the whole process be declared null and repeated from its beginning. If your petitioner fears the respondent, please feel free to discuss the situation with the judge. But the Tribunal will need to contact the respondent.

Your petitioner may find it encouraging to know that the Tribunal conceals their address from the respondent. If it would help your petitioner, the Tribunal can contact your petitioner whenever the Tribunal is about to contact the respondent. That way, your petitioner can take steps to be safe. Feel free to contact the Tribunal to discuss your petitioner's concerns.

What happens during the Investigation Stage?

Here are the steps in the Investigation Stage.

1. If the respondent wants to give testimony, the Tribunal gathers the respondent's interview through a questionnaire or an interview.
2. The Tribunal seeks testimony from the petitioner's witnesses, usually by questionnaire.
3. At the same time, the Tribunal seeks testimony from the respondent's witnesses, if the respondent called any witnesses.
4. At the same time, the petitioner and respondent can submit any other evidence which might help the Tribunal, such as important letters.
5. After all the witnesses have responded, the Tribunal will often have an interview with the petitioner to ask some follow-up questions.
6. After all the other evidence is gathered, the Tribunal will often ask a psychological expert employed by the Tribunal to read over the case file and write a report.
7. The Tribunal makes all the evidence available for the petitioner, advocate, and respondent to review. This is called the Publication of the Acts. The petitioner, advocate and respondent can make comments on the evidence gathered. If needed, they can request that additional evidence be gathered.

The duration of the Investigation Stage depends on how quickly the witnesses and the respondent give testimony. This stage often lasts 8 months or more. If the respondent wants to give testimony, but the advocate thinks that the respondent is unlikely to write answers to a long questionnaire, the advocate can suggest that the judge interview the respondent.

What are good proofs of a “grave lack of discretion of judgment”?

Broadly speaking, there are three paths to prove a grave lack of discretion of judgment.

- In the first path, the Tribunal finds proof that one of the parties at the time of consent had an important psychological anomaly which removed that person's ability to evaluate the essential obligations of marriage.
 - Good proofs on this path include evidence that the person already before marriage had been diagnosed with some psychological disorder, or had many unequivocal symptoms of some psychological disorder.
 - Good proofs on this path include evidence that even in the first years of marriage some psychological disorder caused dire problems in the married life.
 - Good proofs on this path include evidence that unusual conditions in the person's life before marriage which contributed to the development of the psychological disorder.
- In the second path, the Tribunal shows that one of the parties completely lacked internal freedom so that it was impossible for that person to refuse marriage.
 - Good proofs on this path include evidence that shows the person had some serious psychological problem which reduced their freedom of choice.
 - Good proofs on this path include evidence about the person's character and maturity which shows that they were unusually weak in resisting pressure.
 - Good proofs on this path include evidence of circumstances which exerted overwhelming pressure towards marriage.
- In the third path, the Tribunal finds proof that one of the parties at the time of consent suffered from serious and atypical immaturity that made them far less mature than most people exiting adolescence.
 - Good proofs on this path include evidence of persistent immaturity: a pattern of immature choices not just on a few occasions, but in many situations.

- Good proofs on this path include evidence of pervasive immaturity: a pattern of immature choices not only in that person's relationship with the fiancée and spouse, but in many other areas of life as well.
- Good proofs on this path include evidence of serious immaturity: not just those foolish choices that are normal among people exiting adolescence (e.g., drinking too much on occasion, wandering career choices, bickering over small things, inappropriate flirting) but foolish choices that are exceptional even among young and somewhat immature people.

What If My Petitioner's Witnesses Are Not Responding?

Try to learn why the witnesses are not responding. Do the witness understand why their participation is important? Does the witness have trouble writing answers? Is the witness busy and struggling to find time to answer?

Talk to the judge handling the case. The judge can advise you whether or not the case can proceed without the problem witnesses. The judge can talk with you about who else might be good replacement witnesses. The judge can interview witnesses who are willing to give testimony but who do not have time or ability to write answers.

Why has the judge called my petitioner for an interview?

Judges often call petitioners for an interview after all the witness testimony has been gathered. A supplemental interview with the petitioner happens in about half the cases. A supplemental interview with your petitioner helps the judge understand how your petitioner communicates. Often the judge wants to get details about what the petitioner has already described. For example, your petitioner may have described important events, but forgot to say when the event happened. Sometimes the judge wants to get your petitioner's perspective on events reported by the respondent or the witnesses.

You are always welcome at the petitioner's interview. Your presence can help the petitioner express himself or herself clearly. You can also help the judge catch important questions or topics which should not be overlooked. However, your petitioner's intended spouse or civil spouse will not be allowed to be present at the interview.

Why has the judge decided to use a psychological expert?

The Holy See has instructed tribunals to consult with a psychological expert whenever a case involves psychological grounds (canon 1678 §3). So if grave lack of discretion of judgment is one of the grounds in the case (canon 1095 2°), the judge will consult with a psychological expert. Or if incapacity to assume the essential obligations of marriage is one of the grounds in the case (canon 1095 3°), the judge will consult with a psychological expert.

To economize, the Metropolitan Tribunal usually consults with a psychological expert by sending the expert all the evidence of the case and asking the expert to give written answers to questions posed by the judge. In very difficult cases, the Metropolitan Tribunal might ask one or both of the parties to meet with the expert for an in-person evaluation.

What does this letter about “publication of the acts” mean?

The petitioner and respondent both have a right to respond to how others’ descriptions of the courtship and common life. Thus, the petitioner and respondent have the right to review the evidence gathered by the Tribunal. When the Tribunal has gathered the evidence, then the Tribunal “publishes the acts”. At the publication of the acts, the petitioner, respondent, or their advocates can come to the Tribunal, read all the evidence, respond with comments, and if needed, request that the Tribunal gather more evidence.

How can I tell if my petitioner’s case might receive a negative decision?

If the judge encourages you or your petitioner to use your right to review the evidence that might be a sign that the Tribunal sees this case a more difficult one. If the judge writes to ask you for additional witnesses testimony, that might be a sign that the Tribunal is having trouble proving the marriage invalid.

If the Tribunal assigns three judges to your petitioner’s case, that is a sign that the Tribunal considers your petitioner’s case to be a difficult one.

What can I do if my petitioner’s case might receive a negative decision?

Make sure your petitioner understands that an affirmative decision is not guaranteed. Encourage the witnesses to give detailed responses with specific examples, clear dates for important events, and clear statements explain how they learned what they learned. If you think that some witnesses will have trouble giving that sort of evidence, ask the judge to interview those witnesses rather than asking them to write responses.

Ask the judge to make the case a three judge case so that the Tribunal will examine the evidence with special care. Ask the judge if there are any unclear points which could be clarified by more evidence.

Make sure that you and the petitioner review all the evidence collected by the Tribunal when the Tribunal offers you this opportunity. You want to make sure that the information on file is accurate and complete. If the respondent or a witness has given testimony damaging to your petitioner’s claims, you want to have your petitioner respond to that testimony. If there is a psychological report, read it carefully. As far as you can tell, has the expert correctly evaluated each party’s condition at the time of consent? If not, discuss your concerns about the expert’s report with the judge.

What happens during the Decision Stage?

Here are the steps in the decision phase.

1. The Defender of the Bond writes a defense brief for the Tribunal. In this brief, the Defender of the Bond points out for the Tribunal any evidence or arguments in favor of the bond of marriage, that is, everything which suggest that the Tribunal give a negative decision instead of declaring the marriage null.
2. If there are three judges working on the case, the judges schedule a time to meet. Each judge brings a written opinion to that meeting. The judges discuss the case. Judges can change from their written opinions based on the discussion of the judges. After discussion, the judges vote on what answer should be given; the vote of the majority prevails. This is a closed meeting with only the judges present, and the judges cannot tell others what was discussed or how any judge voted. And the end of the meeting, the judges write and sign a record of the decision given on each ground.
3. One judge writes a sentence which states the decision given by the Tribunal and explains why the Tribunal gave the decision it gave.
4. The Tribunal notifies the petitioner and respondent of the outcome of the trial. The Tribunal's letter explains the right to appeal an adverse decision.
5. If the Tribunal imposed a prohibition (vetitum) or warning (monitum) about either the petitioner's or the respondent's future marriage in the church, the Tribunal's letter also notifies the affected person about the prohibition or warning.

The Decision Stage often takes 1 or 2 months.

Can you give an example of a prohibition (vetitum)?

Some time ago the Tribunal gave an affirmative decision, declaring that a certain union was invalid by reason of grave lack of discretion of judgment on the part of the respondent. The psychological expert had told the Tribunal that the respondent suffered from a serious narcissistic personality disorder and had substance abuse problems. The respondent abandoned the petitioner at the end of the common life and neglected his obligations to his children. The tribunal had no evidence that the respondent's psychological condition had improved.

The Tribunal imposed a prohibition (vetitum) on the respondent. The Tribunal ordered that the following marginal notation be added to the respondent's baptismal record: "Marriage by the respondent is temporarily prohibited. Contact the Metropolitan Tribunal of St. Louis" The Tribunal informed the respondent of the temporary prohibition. The Tribunal told the respondent that the Tribunal would remove a temporary prohibition when the following condition was satisfied: "a suitable and informed counselor shows that the respondent's personal issues have ameliorated."

Please note that the Tribunal also imposes temporary prohibitions on petitioners when the facts of the case suggest that the petitioner even at the present time might marry invalidly.

If the Tribunal places a prohibition (vetitum) on my petitioner, what does my petitioner need to do to marry in the Church?

If the Tribunal placed a temporary prohibition (vetitum) on your petitioner, the Tribunal informed you and the petitioner what needs to be done before the Tribunal will remove the temporary prohibition. After that condition is fulfilled, the counselor or priest who assisted your petitioner should contact the Tribunal. When the Tribunal is satisfied that the petitioner is now able to marry validly, the Tribunal will remove the temporary prohibition. The Tribunal will then send the petitioner a notification that the petitioner is free to marry. The Tribunal will also remove the marginal notation about the prohibition from the petitioner's baptismal record. Your petitioner can then start marriage preparation and marry in the Church.

Can you give an example of a warning (monitum)?

Some time ago the Tribunal gave an affirmative decision, declaring that a certain union was invalid by reason of a grave lack of discretion of judgment on the part of the respondent. The psychological expert held that the respondent's sufferings as a child had left her with post-traumatic stress disorder. The respondent's behaviors before and after marriage gave clear evidence that when the respondent wed at age 25, she suffered from atypical immaturity which was serious, persistent and pervasive. The respondent after the divorce had received counseling, but the tribunal did not have clear information on the respondent's current state.

The Tribunal imposed a warning (monitum) on the respondent. The Tribunal ordered that the following marginal notation be added to the respondent's baptismal record: "The cleric preparing the respondent for marriage is asked to contact the Metropolitan Tribunal of St. Louis." The Tribunal informed the respondent of the warning: "Let the cleric preparing the respondent for marriage take care to confirm that the respondent has resolved the personal struggles which contributed to the breakdown of her former union."

Please note that the Tribunal also imposes warnings on petitioners when the facts of the case suggest that the petitioner may benefit from special pastoral care should the petitioner seek a future marriage in the Church.

If the Tribunal places a warning (monitum) on my petitioner, what does my petitioner need to do to marry in the Church?

If the Tribunal placed a warning (monitum) on your petitioner, your petitioner is free to start marriage preparation for a future marriage in the Church. The priest or deacon preparing your petitioner for marriage should speak to the Tribunal. The Tribunal will inform that priest or deacon about the matters which need special attention during marriage preparation. The priest or deacon then has discretion how best to prepare your petitioner for marriage. There is no need for further contact with the Tribunal.

What happens after the Decision Stage?

The judges of Tribunal are human beings who can make mistakes. To guard against mistakes, the Church gives the petitioner, respondent, and Defender of the Bond a right to appeal a decision with which they disagree. If someone appeals, a new set of judges from a higher court will review the entire case from start to finish. Appeals against decisions of the Metropolitan Tribunal of St. Louis go to the appellate court for the dioceses of Missouri, located here in Missouri. Alternatively, someone can request that their appeal be handled by the Roman Rota, a Supreme Tribunal in service of the Pope.

If the Tribunal's decision was affirmative and declared that the marriage was invalid, then the respondent or Defender of the Bond have 15 days to appeal. The clock starts running when the respondent receives notice of the decision. If no one appeals within the 15 days, the decision has become final and the invalid marriage no longer blocks either party from marrying in the Catholic Church. When the time for appeals has expired, the Tribunal notifies both the petitioner and respondent that the Tribunal's decision has become final.

If the Tribunal's decision was unfavorable to the petitioner and declared that the marriage has not been proven invalid, then the petitioner or respondent can appeal. There is no time limit on this appeal. The petitioner can appeal three days later, three months later, three years later, or three decades later.

How can I help my petitioner after a negative decision?

Nothing will make this moment an easy one. Assure your petitioner that the Tribunal's negative decision does not mean your petitioner has been rejected by the Catholic Church. The Church wants your petitioner to be an active member of the parish community, praying at Sunday Mass and being nourished there by the Word of God. If you do not feel qualified to give your petitioner spiritual counsel, direct your petitioner to a priest who can give that support.

Help your petitioner decide whether or not to appeal the decision. Encourage your petitioner to take time to read the full sentence explaining why the Tribunal gave a negative decision. After you have read the decision and talked with the judge, explain to your petitioner what is likely to happen if your petitioner appeals.

Perhaps the most important way you can help petitioners in the case of a negative decision is by giving all petitioners from the beginning of the process a clear vision of the purpose and limits of the Tribunal processes. From the very start of each case, make sure your petitioner knows that an affirmative decision is not guaranteed. Make sure your petitioner knows that the decisions of the Tribunal are not favors granted to people who have the goodwill of the Church. The Tribunal tries to learn, as best as human beings can, the condition and intention of each person at the time of consent, and the final decision is based on those facts.

