



## DIOCESE OF SACRAMENTO

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THE TRIBUNAL

TO: Priests, Deacons, Lay Advocates  
FROM: Cheryl M. Tholcke, *Moderator of the Tribunal Chancery* *cmk*  
Rev. Mark R. Richards, JCL, *Judicial Vicar* *MR*  
DATE: 8 December 2015  
RE: Changes in Marriage Nullity Cases in Light of *Mitis Iudex*

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Today the Holy Father's *motu proprio* takes effect in tribunals throughout the world. Here is a snapshot of the changes in procedures regarding marriage nullity cases.

1. **The changes affect formal cases only.** Pauline Privilege, Favor of the Faith, *Ligamen*, and Lack of Form cases proceed as they have been.
2. **Competence.** We no longer have to request permission for competence (jurisdiction) from the respondent's diocese in order to try a case here. Canon 1673 is renumbered Canon 1672, and competence is changed to include:  
1° the tribunal of the place in which the marriage was celebrated;  
2° the tribunal of the place in which either or parties have a domicile or quasi-domicile;  
3° the tribunal of the place in which in fact most of the proofs must be collected.  
→The requirement that the respondent's judicial vicar must be contacted (formerly for the petitioner's domicile, which also had to be within the territory of the same episcopal conference; or location of proofs) is no longer present.  
→This will save one to five months at the start of a formal case where competence would previously have been required.
3. **Court of Second Instance.** A new canon, Canon 1679, provides for the immediate execution of the sentence following the deadline for an appeal. No longer will affirmative decisions be required to be confirmed by a Court of Second Instance (Metropolitan Tribunal of San Francisco). (Parties still have the right to appeal to the SF Tribunal or to the Roma Rota.)  
→This will save four to six months at the end of case (typical wait time for an affirmative decision to be confirmed by the SF Tribunal).
4. **The "Briefer Process".** The new Canon 1683 provides for a briefer process before the Diocesan Bishop when (a) the petition is presented by both parties, or by one with the consent of the other; AND (b) circumstances of nullity are manifest, with substantiating testimonies and records, which require no further investigation or inquiry.  
→Contrary to what might have been heard through the media, there is still the requirement of proof (records and testimonies) in the briefer process. If the evidence requires more examination or more proofs, the case will be addressed as an ordinary formal case.  
→The Tribunal staff always looks at a submitted case to see if it would qualify for a process other than a formal case (*Ligamen*, Pauline Privilege, Favor of the Faith, Lack of Form). The "briefer process" will be added to this list.

→The briefer process will require additional work on the part of the parish advocate. If you think you have a case that will qualify for the briefer process, please call the Tribunal for further instructions. This is new, and we are still working on fine-tuning the process.

5. **The Bishop as Judge.** The Diocesan Bishop will be the judge in the cases presented for the briefer process. However, the cases will still be prepared by the Tribunal and should be submitted directly to the Tribunal, not to the Bishop.
6. **Fees.** While the Holy Father would like to see no fees charged by a Tribunal, he also recognizes that staff must be paid for their work. Episcopal conferences (e.g., USCCB) have been asked to look into this. For now, the fee schedule for our Tribunal remains the same. Priests, deacons, and lay advocates are reminded to contact Cheryl if they have a petitioner who cannot afford the fee. No one is turned away due to lack of funds.
7. **Introduction and Instruction of Cases.** Internally, the Tribunal will be able to combine several steps together in the formal case process thereby eliminating the need to wait two to three weeks between some steps.
8. **Download forms from the Tribunal's webpage.** Any changes to the Formal Case application form will be uploaded to the webpage. Always download the forms from the website (<http://www.scd.org/diocese/forms.html>) to be sure you are using the most up-to-date forms.
9. **Parish Advocate Training.** Our training program will be held February 16-18, 2016 at Christ the King Retreat Center in Citrus Heights. This program will address in depth the changes from *Mitis iudex*, clarify the job description of advocates, and deepen participants' knowledge of the marriage nullity processes. All pastors and parish advocates have received registration information, which may be found on the Tribunal's webpage: <http://www.scd.org/diocese/tribunal.html>.