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**As a participant, what are the Respondent's options?**

After receiving the Decree of Acceptance and Citation, a Respondent may **wish to participate** because they:

1. Oppose the contentions of the Petitioner that their marriage is invalid *or*
2. Wish to cooperate in trying to declare the marriage invalid.

They are given the option to choose to participate by:

- Answering a written questionnaire *or*
- Agreeing to a telephone interview, *and*
- Offering witnesses on their behalf.

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**Who may represent the Respondent?**

A party can freely appoint an ADVOCATE or PROCURATOR; however, the party can also respond without counsel (c. 1481, §1).

A procurator *acts on behalf* of the party for procedural acts.

An Advocate in the strict sense is a licensed canonist that may be hired by a Respondent; however, the Respondent is also given the choice to use the services of an appointed *Tribunal Advocate*.

In some cases, a *Parish Advocate* may be asked to work as an advisor to the Respondent.

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**Or, the Respondent may voluntarily declare themselves absent**

The Respondent may choose not to provide testimony but wish to be kept informed of the proceedings and to have the opportunity to review the acts of the case and to appeal.

In this case, the Respondent receives the Decree of Acceptance and Citation of Parties, Joinder of Issues, and Decree of Publication of the Acts, and letter informing him/her of the decision.

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**The Respondent should be encouraged to participate because their side of the story is IMPORTANT!**

*o "One cannot conceive of a just judgment without the 'contradictory', that is to say, without the concrete possibility granted in each party in the case to be heard and to be able to know and contradict the requests, proofs, and deductions adopted by the opposing party or ex officio." Saint John Paul II*

*o Without the Respondent's side of the story, the truth of the matter is more difficult to discern.*



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**Respondent – Absent from Trial**

*o If the cited Respondent has neither appeared nor given a suitable excuse for being absent or has not responded according to the norm of citation c. 1676, §1, the judge, having observed what is required, is to declare the Respondent **ABSENT** from the trial and decree that the case is to **proceed**.*

*o Legitimate Citation*

- o c. 1510, a Respondent who **refuses to accept** or otherwise evades the notification of a citation is considered legitimately cited.*
- o **No appearance** by the cited party does not establish the presumption that the Respondent who does not reply is not without worth, c. 1586.*
- o A reply to the citation (return of the certified receipt of citation) **without comment** establishes the presumption that the Respondent was legitimately cited.*
- o At least two (2) attempts are made to cite a party.*

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## If you cannot find the Respondent!



- o Before submitting a case to the Tribunal, a concerted effort by the *Petitioner* must be made to locate the Respondent, and if the Petitioner is unable to locate the Respondent, they must provide an **Affidavit of Diligent Search** at submission
- o When the Respondent is unable to be located, the judge decrees that person **WHEREABOUTS UNKNOWN** specifying the nature of the efforts made to locate the Respondent, concluding that all reasonable efforts to discover the Respondent's whereabouts have failed.
- o The trial must go on...

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## How to Find a Respondent

- Internet search
- Intelius.com
- Ancestry.com
- Social media (Facebook, Instagram, Twitter, etc.)
  - Private detective
  - Whitepages.com
  - Friends and Family




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## If the Respondent is Absent ...

The Tribunal's ability to discover and rule in accord with the truth may be **significantly limited**.

Testimony from both parties as to the partnership provides the possibility of greater insight into their interpersonal relationship and personal dynamics.

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By their absence, the Respondent waives most of their rights in the trial; however, those who have been decreed ABSENT are cited with the LIBELLUS (petition) and Decree of ACCEPTANCE, Decree of JOINDER, and Decree of PUBLICATION OF THE ACTS.

**Remember:** If the Respondent appears later in the process or responds before a decision, the Respondent can offer conclusions or proofs within certain limits so as to protect against excessive delays.

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**When The Respondent is not CATHOLIC**

Canon 1476 acknowledges the right of all persons to lodge a petition for declaration of nullity and places no limitation on who may exercise the right to pursue an action.

This is because:

- Marriage flows from divine natural law.
- All baptized and non-baptized have a natural right to marry.
- Just like all sacramental unions are presumed valid, all non-sacramental unions are presumed valid unless proven otherwise. (1983 CIC, c. 1060)

The marriage nullity trial is conducted in order to clarify the question of the legal status *in the Church* of persons who, according to Church Law, are presumed to be married, more specifically to answer the question, "Are the parties bound by the bond of marriage?"

Neither party needs to be Catholic to participate in a trial of nullity!

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