

The *Ligamen* [prior bond] Process

(Revised November 2001)

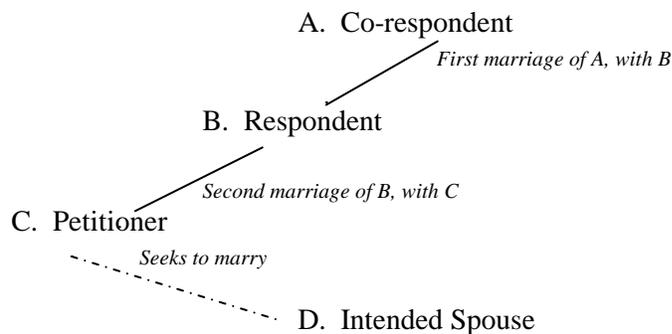
To the Petitioner,

It is presumed that you wish to establish your freedom to marry in the Catholic Church, that you have talked with a priest of the Diocese of Lincoln about this matter, and that he has given you this form. Please read this entire form and carefully follow the instructions given so as to avoid delays in the process.

The Catholic Church teaches that in order to be free to enter into marriage, a person may not have an **impediment** (obstacle) which prevents that person from entering into a valid marriage. One of the impediments to marriage is known as the impediment of prior bond (or *ligamen*). If a person is already bound to a valid bond of marriage, even though there has been a civil divorce, that person is not free to marry another spouse as long as the previous valid bond exists. This impediment is of natural law, and binds all persons, not only those who are Catholics. If the impediment of *ligamen* (prior bond) exists and a person attempts marriage to a second spouse, the second marriage is invalid due to the existence of the impediment. The Catholic Church would not permit another marriage while the previous bond exists, but laws of the state and the practice of other religions do permit these persons to marry again.

The Church provides a **process** which is used to establish the invalidity of a second (or later) marriage due to the impediment of *ligamen*. This process could be conducted by the Tribunal in the case where the second spouse now desires to enter into a valid marriage in the Catholic Church. It is necessary to explain some terms that will be used. The person seeking the decree of invalidity for his/her marriage due to a prior bond on the part of his/her former spouse is known as the **petitioner**. The ex-spouse of the petitioner is known as the **respondent**. The prior spouse of the **respondent** is known as the **co-respondent**. These terms will be used throughout this questionnaire and the process.

The example below represents a typical case, but it is not the only possibility. The impediment of *ligamen* arises from the valid marriage of A and B, thus preventing B from entering into a valid marriage with C. If this is proven to be true, the marriage between B and C can be declared invalid, and C is free to marry D.



If the respondent had more than one previous marriage before marrying the petitioner, at least one of these must be shown to be binding for the impediment of *ligamen* to apply. Another spouse of the respondent before the respondent married the Petitioner, could be called **2nd co-respondent**, when such exists.

Ordinarily, the *ligamen* process seeks to obtain documentary evidence to establish the fact of the impediment of *ligamen*, i.e., that the respondent was in a valid prior bond throughout the duration of the petitioner-respondent marriage and so was not free to marry the petitioner. Thus, the petitioner could be shown to be free to enter into marriage now. The information necessary as evidence includes: marriage and baptismal certificates, divorce decrees or other documents, the written documents you present, and testimony of witnesses. If the required documents and testimony are obtainable, this process may be shorter than pursuing a formal case, where the aim is to prove a defect of consent. As the *ligamen* process is begun, if it is found that the necessary documents and

evidence are not obtainable, or the conditions for a declaration of nullity on the basis of *ligamen* are not verified, then a formal case could begin. Note that the *ligamen* process attempts to clarify if there was a marriage of your former spouse that is presumed valid, and so the *ligamen* process is different from other processes, which aim at proving nullity.

There is a special situation when a *ligamen* case is tied to a privilege case (favor of the faith, or pauline privilege). If the petitioner was married twice or more, and requests a privilege case for his/her first marriage, the subsequent marriage(s) may be declared invalid due to the impediment of prior bond.

The following are the requirements of the ligamen process for you, the Petitioner:

1. **All the forms and documents required for a Formal Case.** Besides this *Ligamen* form, please obtain from the priest who will assist you a Formal Case Application to complete. Please be very thorough in completing all the steps and supplying all the information that is requested in the Formal Case Application including the one page petition. If your marriage to your former spouse cannot be proven on the basis of *ligamen*, then you could more easily and more quickly proceed with a Formal process.

2. **Documents.** In addition to the documents requested in the Formal Case Application, you will also need to obtain the civil marriage certificate and divorce decree [or civil decree of nullity] concerning the previous marriage[s] of your former spouse. These documents are public and may be available from the appropriate office in the state or county where the civil action took place. Though these are matters of public record, personnel of these offices may be reluctant to release the records to anyone who was not a party to the marriage. If you have trouble obtaining these documents, a letter from your former spouse [or the co-respondent] granting permission to obtain these documents may help. Other measures may be taken, including the help of an attorney.

Also needed: a recently issued baptismal certificate for any of the other parties to the case who were Catholic or Orthodox. These may be obtained from the Church of baptism. If possible, a copy of the Protestant baptism of another party to the case may be obtained.

3. **Witnesses.** In addition to the witnesses requested in the formal process concerning the possible nullity of the marriage due to defect of consent, you are asked to name separate witnesses for the *ligamen* process. Thus, you will need to submit two separate lists of witnesses. Each set of witnesses are named for a different process. For this purpose, make photocopies of the "Petitioner's Witness List" form, page 9 of the Formal Case Application. Write "Witnesses for Ligamen Process" at the top of these photocopied pages and supply the requested addresses and information for the witnesses according to the following criteria.

Good witnesses for the *ligamen* process are those persons who would have known your former spouse and the co-respondent well at the time of the marriage. Witnesses should be able to testify about the marital status and religious affiliation of either or both the man and the woman of the prior marriage. They must be willing to give testimony when contacted by the Tribunal. It is possible that their participation is not as easily obtained, as persons with such knowledge may not be your friends or relatives.

4. **Co-Respondent information.** You are also asked to supply the same information for the Co-Respondent[s] as for the Respondent. For this purpose, duplicate page 4 of the Formal Process Application.

There are different possible *ligamen* cases and they can be complex. When in doubt, please submit all you have to the Tribunal through the priest. The Tribunal will examine what you present and request anything further that may be needed.

Statement of the Petitioner - Ligamen Case

I, _____ make the following statement of understanding concerning my
(Please print your current name)

petition for declaration of nullity of my marriage to _____
(Please print your former spouse's current name)

By my signature below, I declare that I have read this statement and understand and accept all that is contained in this statement. **I understand that:** ♦There is no guarantee the final decision of the Tribunal will be affirmative, i.e., to declare the nullity of the marriage. ♦No guarantee can be given to me about the amount of time it will take to receive a final decision. ♦The decision of the Tribunal depends entirely on the merits of the case, based on the evidence presented, and the laws of the Catholic Church regarding the marriage and nullity of marriage. ♦I must not set a date for any future marriage (or convalidation) in the Catholic Church until a final declaration of nullity is given by the Tribunal, and no priest or deacon is to provide me with even a tentative date for a future marriage in the Catholic Church. ♦If, according to the laws of the Catholic Church, I am presumed to be bound to any other marriage, I cannot plan to marry in the Catholic Church, unless it is proven that I am not bound by any previous marriage. ♦I must follow the laws of the Catholic Church to be received into the Church by baptism or profession of faith. ♦I should not date until it is clear that I am free to marry. ♦Even if a declaration of nullity is given, the Tribunal may require professional counseling be successfully completed before a subsequent marriage in the Catholic Church will be permitted. ♦This is an exclusively religious matter and has no civil effects. ♦I am obliged to observe confidentiality concerning the Tribunal proceedings. ♦I am to ask my witnesses to cooperate with the Tribunal process, but am not to discuss what they should say when they are questioned by the Tribunal. ♦All information gathered in this matter is privileged for the use of the Tribunal of the Diocese of Lincoln in accord with the laws of the Catholic Church, and for no other reason. ♦The burden of the proof of the nullity of my previous marriage falls to me. I am obliged to supply the Tribunal of the Diocese of Lincoln with documents, testimony, witnesses and any information that is requested. ♦I understand I may request original documents to be returned to me. ♦I realize I have the responsibility to keep a copy of all the materials that pertain to my case, in the event anything pertaining to my case is lost in the mail or in any other way. ♦I am obliged to refrain from calls to the Tribunal Office inquiring about the status of my case. I will make contact with my parish priest or advocate as needed. ♦I will address written inquiries and correspondence to the Tribunal, including the case name (namely, my last [maiden] name - my former spouse's last [maiden] name), and the case number assigned. ♦For reasons of confidentiality, no information about my case will be given to third parties (present spouse, fiancé, parents, family members, etc.) and they should not contact the Tribunal. ♦I agree to cooperate fully with the Tribunal of the Diocese of Lincoln and to be bound by the policies of the Tribunal.

Declaration Concerning Expenses - Ligamen case

I understand that the expenses incurred by the Tribunal of the Diocese of Lincoln are greater than the fees that are asked. I realize that the decision of the Tribunal is based on the merits of the case and that no case will be refused, nor will the decision of the Tribunal be influenced by non-payment of fees.

I understand that when I have completed my application and petition, I am asked to pay a \$25.00 filing fee when my petition is submitted. All checks are to be made payable to "The Catholic Bishop of Lincoln." I agree to pay an additional \$25.00 (for a total of \$50.00 for the entire *ligamen* process) when the case is completed.

I agree to these Court costs and accept the responsibility for full payment according to the policy of the Tribunal. If I need a reduction of fees for a serious reason I will ask the priest who helps me present my petition and will indicate the reasons on a separate sheet of paper.

Signature of Petitioner _____ Date _____

Place _____ Signature of Priest _____
(City, State) (Seal)

PETITION

I, the undersigned, _____,

Petitioner's full (maiden) name

a _____, born on _____,

Petitioner's religion

Petitioner's date of birth

residing at _____,

Address including City, State, Zip

respectfully request a declaration of nullity of the marriage I contracted with

_____,

Respondent's full (maiden) name

a _____, born on _____.

Respondent's religion

Respondent's date of birth

The marriage was contracted on _____

Date of the marriage

at _____.

Place (name of church or hall, etc.) City, State

The officiant was _____.

Name and title of officiant

This petition is based on the assertion that _____ was bound

Your former spouse's name

by a previous valid marriage contracted with _____

Co-respondent's full (maiden) name

on _____ at _____.

Date

Place (name of church or hall, etc.) City, State

Signature of Petitioner

Date

Place (City and State where the Petitioner signs this petition)

Priest

Name of Parish, City, State, (Seal of Church)