

Ecclesiastical Trial Court Rules of Procedure

Rule 1: Application and Scope of Rules

These Rules govern procedure in the Ecclesiastical Trial Court (Court) in all presentment actions. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every such action. For procedures not covered by these Rules, the Court will entertain the 1983 Code of Canon Law of the Roman Catholic Church (Latin Church), to the extent they provide guidance for the Court.

Rule 2: Institution of Presentment Action

- A. When, after investigation of an accusation, the diocesan authority has determined that the matter should proceed forward, Articles of Presentment shall be prepared and personally served upon the Presbyter or Deacon against whom the accusation has been made.
- B. The Articles of Presentment shall be made in a writing signed by a representative of the diocesan authority, wherein shall be specified all particulars of time, place, and circumstances alleged.

Rule 3: Service and Filing of Pleadings and Other Papers

Except as otherwise expressly provided in these Rules, every pleading, paper, motion, and notice subsequent to the Summons and Articles of Presentment required to be served on a party shall be served upon either the party or the attorney that enters an appearance for the party, unless otherwise ordered by the Court. Service shall be made by hand delivering a copy to the party or the party's attorney or by mailing it to the party's or the attorney's last known address. Service by mail is complete upon mailing. The filing of papers with the Court shall be made by filing them with the Presiding Officer of the Court unless otherwise directed by the Court. The parties may by agreement approved by the Court also provide for service by other means such as electronic mail and/or facsimile transmission.

Rule 4: General Rules of Pleading

- A. Articles of Presentment. The Articles of Presentment shall contain a short and plain statement of each Offense with express reference to applicable provisions of Canon 2 of Title IV of the Canons of the Province, and a plain and concise statement of the facts upon which each such allegation is made.

- B. Answer. The Answer shall state in short and plain terms the Respondent's response to each allegation of the Articles of Presentment, including any defense thereto, and shall admit or deny the factual allegations of the Articles of Presentment. If the Respondent is without knowledge or information sufficient to form a belief as to the truth of any factual allegation, the Respondent shall so state and this has the effect of a denial. Denials may also be made in part or with qualification.
- C. Style. Pleadings are to be plain and concise. No technical forms of pleadings or motions are required.
- D. Construction. All pleadings shall be so construed as to do substantial justice.
- E. Form of Pleadings. Every pleading shall identify the name of the Court, name of the Respondent, and file number, if any. All allegations in the Articles of Presentment and the Answer thereto shall be made in separately numbered paragraphs. Exhibits may be attached and identified by reference within the pleading.
- F. Signature. All pleadings shall be signed by the attorney for the party on whose behalf it has been prepared, or the party if not represented by an attorney. Each paper shall state the signer's address and telephone number.

Rule 5: Defenses and Objections.

- A. When Presented. Unless a different time period is prescribed, a Respondent shall serve an Answer to the Articles of Presentment upon the Trial Attorney and file it with the Court within 30 days after being served with a Summons and Articles of Presentment.
- B. How Presented. The following defenses may be asserted either in the Answer or by motion:
 - (1) insufficiency of service or process;
 - (2) lack of jurisdiction;
 - (3) failure to state the factual basis of an Offense; and
 - (4) expiration of the applicable period of limitations as stated in Canon 3 of Title IV of the Canons of the Province.

The Respondent may also move for a more definite statement before filing an Answer if the Articles of Presentment are so vague or ambiguous that Respondent cannot reasonably be required to frame a responsive pleading.

Rule 6: Amended and Supplemental Pleadings

The Court may, in the interest of justice, permit the filing of amended and supplemental pleadings.

Rule 7: Voluntary Disclosures, Discovery

- A. Voluntary Disclosures. The parties shall provide to each other and the Court not later than 30 days prior to trial a list of all the witnesses expected to testify at trial, including the name and address of each witness; and copies of all documents and exhibits intended for use at trial.
- B. Discovery. The parties may conduct discovery through written or oral depositions or written interrogatories. The Court may limit the number, length, and scope of depositions or interrogatories. The Respondent shall not be required to make any statement or admission against him or herself in any discovery procedure.

Rule 8: Taking of Testimony

In all Court proceedings, the testimony of witnesses shall be taken orally in open Court by the Recorder of proceedings, unless otherwise provided by the Court. Such testimony shall be given under oath or solemn affirmation. Trial Court members may question witnesses directly to clarify previous testimony or cover an omission of information.

Rule 9: Summary Judgment of Offense

- A. How Made. If the Respondent fails or refuses to Answer the Articles of Presentment or otherwise respond by motion, except for reasonable cause to be allowed by the Court, the Trial Attorney may, no sooner than 30 days after the Answer is due, move with or without supporting affidavits for Summary Judgment. A Respondent may also move, with or without supporting affidavits, for Summary Judgment on part or all of the allegations of the Articles of Presentment.
- B. Opposing Affidavits. Prior to the day of any hearing set by the Court on a Motion for Summary Judgment, the Respondent may submit affidavits in support of his or her response to the Motion.
- C. Proceedings Thereon. The court shall convene a hearing to consider any Motion for Summary Judgment and may, in the Court's discretion, receive oral testimony at any such hearing. If the Articles of Presentment, together with affidavits, if any, and any oral testimony or other admissible evidence presented to the Court show that there is no genuine issue as to any fact material to a determination that the Respondent committed an Offense, the Court shall render Summary Judgment as sought by the Motion for Summary Judgment.
- D. Form of Affidavits. Supporting and opposing affidavits, and any oral testimony, shall be made on the basis of personal knowledge, shall state such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify as to the

matters stated. Copies of papers referred to in an affidavit shall be attached to and served with the affidavit.

- E. Defense Required. When a motion is made and supported as provided in this rule, the opposing party may not rest upon mere allegations or denials of the adverse party's pleading but must, by affidavits or otherwise provided in this rule, set forth specific facts to show that there is a genuine issue for trial.

Rule 10: Trials

Each Respondent is entitled to a speedy and just trial of the allegations set forth in the Articles of Presentment. Each Respondent is entitled to confront the evidence against him or her. The facts alleged in the Articles of Presentment must be proved by clear and convincing evidence and the Diocese bears the burden of going forward and of proof as to each and every allegation in the Articles of Presentment. Trials shall be governed by the Federal Rules of Evidence and, where applicable under those rules, the rules of evidence of the state in which the Diocese has its principal office.

Rule 11: Judgment

The Court shall render its Judgment no later than 60 days after the date of the conclusion of the hearing upon a Motion for Summary Judgment or trial.