

THE ARCHDIOCESAN SPIRITUAL COURT

1. Competence

The Spiritual Court of the Antiochian Orthodox Christian Archdiocese is the tribunal of first instance in all matters involving heresy, breaches of canonical and moral discipline, problems in domestic relations, disputes involving members of the clergy, disputes involving parishes, and any other matter involving the good order of the Church, which may be assigned to it for hearing and adjudication by the Metropolitan Primate.

2. Composition and Term

The Court shall be made up of three (3) voting members, appointed by the Metropolitan Primate, one of whom, he shall designate as the presiding magistrate of the Court. He may also appoint an alternate magistrate(s) who shall serve as voting member(s) in the event of disability, absence, or disqualification of a regular magistrate, at any time the Court is convening to hear a cause.

2.01 The members of the Court shall be appointed to serve for a term of three (3) years ... They may succeed themselves by re-appointment.

2.02 The Scribe

The Metropolitan Primate shall appoint a court scribe who shall keep the records of the Court; take the minutes of all its sessions; receive all petitions and written motions filed for the Court, and distribute same to the magistrates. The scribe shall issue all proper summons in the name of the Court, to all parties and witnesses, on instruction of the presiding magistrate, and do all other duties commonly assigned to a scribe or clerk of a tribunal. He shall serve at the pleasure of the Metropolitan Primate.

2.03 Advocate

The Metropolitan Primate shall appoint an archdiocesan advocate, whose duties shall be to investigate any and all matters assigned to him by the Metropolitan Primate, involving accusations of heresy, breaches of canonical and moral discipline, and any matter involving the good order of the Archdiocese, and report on such matters to the Metropolitan Primate.

- 2.03A On direction of the Metropolitan Primate, he shall prepare and file with the Spiritual Court, all the necessary documents to initiate and maintain an action in the Spiritual Court on any matter of competence hereinbefore mentioned and, direct the pleadings of the prosecution before the said Court. He shall serve at the pleasure of the Metropolitan Primate.
3. All matters involving canonical and/or moral violations and discipline; actions involving accusations of heresy or heretical action and teaching; breaches of canonical or moral discipline; and any act of misconduct which results in the breach of the good order of the Church; may be formally initiated only by the Archdiocesan Advocate and on direction of the Metropolitan Primate.
- 3.01 An accusation involving heresy; a breach in canonical and/or moral discipline; a breach to the good order of the Church; must be made in writing to the Metropolitan Primate.
- 3.02 The Metropolitan Primate may dismiss the matter as frivolous and without merit on his own initiative or he may refer the matter to the Archdiocesan Advocate for investigation. In any case, he shall be the sole judge as to the merits of the matter and his decision is final.
- 3.03 When a matter is referred to the Archdiocesan Advocate for investigation, he shall first establish the competence of the accuser as a faithful member of the Holy Church, and his good and irrevocable character. He then shall look into the merits of the accusations and determine if probable cause to maintain an action exists. He shall report his findings and make his recommendations to the Metropolitan Primate. The Primate shall have the sole discretion to dismiss the matter as frivolous and/or without merit, as in Paragraph 3.02, or he may direct the advocate to proceed in preparing the case and initiating the action in the Spiritual Court as probable cause exists. He shall then follow the procedures outlined in Rule 4., General Rules of Procedure, in initiating the case.

General Rules of Procedure

4. The Complaint

The Archdiocesan Advocate shall prepare a formal, written complaint in which he shall fully state the alleged action/s of the accused that is the subject of the complaint. He shall cite the applicable canons of the Holy Church, or rules and practices of the Antiochian See, or rules, practices,

edicts, etc., of the Archdiocese that the alleged action(s) of the accused have breached. The original complaint and six (6) copies shall be filed with the scribe of the Court.

4.01 The scribe of the Court shall assign a case number, then receipt each copy with the time and date and the case number at the time of filing and affix his name thereto. He shall return one (1) copy ,to the Archdiocesan Advocate, forward one (1) copy to the Metropolitan Primate, one (1) copy to the chief magistrate, and one (1) copy to each magistrate, retaining one (1) copy for the files of the Court. He shall send one (1) copy by registered or certified mail with return receipt requested to the accused. If for any reason the complaint is not delivered to the accused at the place of his domicile, he will direct that personal service be made by any member of the clergy serving in this Archdiocese, residing in the proximity of the accused, on the accused or any person over the age of sixteen (16) years at the residence of the accused.

4.02 The accused is given thirty (30) days from the receipt of the complaint to file an answer thereto, in writing. If the accused fails to answer by the proper time, the scribe of the Court shall send a registered or certified letter with return receipt requested, directing the accused to make an answer to the complaint he has received or risk being found guilty in absentia. If the accused fails to make an answer after an additional thirty (30) days have elapsed, the scribe shall notify, by letter, the chief magistrate, the magistrates, the Archdiocesan advocate and the Metropolitan Primate, of the default, retaining a copy in the files of the Court. The Archdiocesan advocate may file a written motion in six (6) copies, for judgment by default, with the scribe of the Court. The scribe shall receipt said motion as in Rule 4.01 of these rules, forwarding the copies as listed in the said Rule. The Court shall sustain the motion and all unanswered allegations may be considered admitted.

5. Content of Answer

 The answer shall contain a specific denial, admission or explanation of each fact alleged in the complaint. If the accused is without knowledge of a fact, he shall so state. Statements of fact and appropriate documentation may be included to support each denial or defense. Allegations unanswered or admitted in the answer shall be considered true and may not be denied later.

5.01 Computation of Time for Filing Answer

To compute the number of days for filing, the first day counted shall be the day following the receipt of the complaint/summons by the accused; and, the last day for filing shall be included in the computation. Example: If an individual received a complaint/summons on August 31, the 30 days for filing starts to run on September 1, and the filing must be made no later than September 30.

6. Place and Method of Filing With the Court

The answer to the complaint and all other pleadings and documents shall be filed with the scribe of the Court through the Archdiocesan Headquarters, located at 358 Mountain Road, Englewood, NJ_07631. Filing must be made either by personal delivery during normal business hours of the Archdiocesan Headquarters, or by certified or registered mail to that office.

6.01 Originals and Copies of All Pleadings

One (1) original and six (6) copies of the answer to the complaint must be filed with the scribe of the Court. For all other pleadings and any document submitted pursuant to the proceedings, shall be served upon the Court and each of the parties in the manner set forth under Rule 6.02.

Service by the Parties

6.02

The parties shall serve on the Court four (4) copies and upon each other one (1) copy of all pleadings and documents, other than the original complaint and answer. Service shall be made by certified or registered mail, return receipt requested, or by personal delivery of the copies of the Court, and a copy to each party on the service list previously provided by the scribe of the Court as set forth in Rule 6.03. A certificate of service specifying how and when service was made (in the event of service obtained through certified or registered mail, the return receipt must be attached to the certificate of service) shall be immediately forwarded to the scribe of the Court, by certified mail or personal delivery. It shall be the duty of all parties to notify the Court and one another, in writing, of any changes in the names or addresses on the service list.

6.03 Service by the Court

The scribe of the Court shall forward the copies of the answer as in Rule 4.01. The scribe will attach a service list indicating the names and addresses of the parties to the proceedings or their designated representatives.

6.04 Limitation for Response

Unless otherwise specified by the Court, the parties shall have ten (10) days from the date of receipt to respond to a pleading, served by the other party. As in Rule 5.01, the first day counted shall be the day following the receipt of the pleading, and the final day for filing shall be included in the computation.

7. Advocates

The accused shall be entitled to choose an advocate from the clergy list of the Archdiocese, and to private counsel if he so chooses. He shall designate in writing the name(s) and address(es) of his advocates to the Spiritual Court. Any subsequent change in representation shall also be in writing and submitted to the Court as well as the other party.

7.01 Any advocate designated by the accused must be willing to serve; however, the Archdiocesan advocate may challenge the designated advocate by the accused on grounds of conflict of interest, or conflict of position. This challenge must be made by proper motion filed with the Spiritual Court within ten (10) days after receipt of the notice of designation, and shall be ruled upon prior to consideration of the case on its merits. In the event the selected advocate is disqualified, the accused shall be given a reasonable time to select another advocate.

7.02 The Court may on its own motion, disqualify an advocate on the grounds mentioned in Rule 7.01.

8. Permission to Intervene

Any individual, by written motion, may request the Court to allow him/her to participate in the proceedings, if the proceedings will effect him/her directly, and if such participation is otherwise appropriate under canon law. Such a motion will be made to the Court, and must state the reasons why the person should be allowed to intervene.

9. Pre-Hearing Discovery

Proceedings before the Court shall be conducted as expeditiously as possible with due regard to the rights of the parties. Discovery is designed to enable a party to obtain relevant information needed for presentation of the party's case. These rules are intended to provide a simple method of discovery. They will be interpreted and applied so as to avoid delay and to facilitate adjudication of the case.

9.01 Discovery may be obtained by written interrogatories addressed to the other party or to specific persons, and by requests for the production of documents similarly addressed.

9.02 A party seeking discovery from another party shall initiate the process by serving a request for discovery directly on the other party, with the necessary copies to the Court. The responding party shall answer the interrogatory or supply the requested document within fifteen (15) days after receipt.

9.03 A party seeking discovery from an Orthodox Christian of this jurisdiction (other than a party to the proceedings), whether clergy or laity, shall initiate the request for discovery by serving the request directly on the Court, with a copy to the other party(ies). If the Court determines the request to be admissible under Rule 15., the Court will request the Primate to communicate the request to such a person with a statement confirming that it is the duty of Orthodox Christian persons to comply with instructions received from the Spiritual Court. The responding person shall be instructed to answer the interrogatory or supply the requested document within fifteen (15) days of receipt of the request.

9.04 A party seeking discovery from an Orthodox Christian of another jurisdiction, whether clergy or laity, shall initiate the request for discovery by serving the request directly on the Court, with a copy to the other party(ies). If the Court determines the request to be admissible under Rule 15., the Court will request the Primate to communicate the request to the hierarch having jurisdiction over such a person and to communicate the said request to such person with the statement confirming that it is the duty of the Orthodox Christian person to comply with the instructions received from the Court. The responding person shall be instructed to answer the interrogatory or supply the requested document within fifteen (15) days of receipt of the request.

9.05 A party seeking discovery from any non-Orthodox Christian person shall serve the request directly on the Court, with a copy to the other party. If the Court determines the request to be admissible under Rule 15., the Court will seek the voluntary cooperation of such person in answering the request.

9.06 Where requests for discovery from non-party persons are unanswered, the Court may permit the parties to introduce secondary evidence concerning the information sought or to take other action appropriate under the circumstances.

9.07 The parties shall initiate all requests for discovery within thirty (30) days after receipt of the answer of the complaint by the Court.

10. Witnesses

The Archdiocesan advocate and the accused may request the testimony of experts and other witnesses acceptable to the Court.

10.01 Each party shall, ten (10) days prior to the hearing, provide the Court with a list of witnesses who will bear testimony on its behalf, and specify the nature of the testimony or area of expertise of each witness.

10.02 The Court may, on its own initiative, invite other experts or witnesses to testify on any of the factual, or canon law, issues involved in the case.

11. Procedural Sanctions

The Court may impose such procedural sanctions upon the parties to this action, as are necessary to serve the ends of justice. The sanctions may include, but are not limited to the sanctions listed in Rule 11.01.

11.01 Failure to Comply With an Order

If a party to the action fails to comply with an order for producing evidence within the party's control, and/or production of witnesses, the Court may:

- (a) Draw an inference in favor of the requesting party with regard to the information sought;

- (b) Prohibit the party failing to comply with such order from introducing evidence relating to the information sought;
- (c) Permit the requesting party to introduce secondary evidence concerning the information sought;
- (d) Strike any part of the pleading or other submission of the party failing to comply with such a request.

11.02 Failure to Make a Timely Filing

The Court may refuse to consider any motion or other action which is not filed in a timely fashion.

12. Scheduling the Hearing

The notice of hearing shall be issued by the Court and shall fix the date, time and place of the hearing. The hearing shall be scheduled not earlier than fifteen (15) days after the date of the notice, unless both parties are agreed to an earlier date. Motions for postponement by either party shall be made in writing, setting forth the reasons for the request and shall be granted only upon a showing of good cause.

13. The Hearing

The Archdiocesan advocate will commence the proceedings with an opening statement, summarizing the complaint and what is to be proven. Such statement should be brief and to the point. He then shall commence by presenting his witnesses, arguments, and documents in support of his accusations; at the conclusion of the presentation, he shall rest his case.

13.01 The accused or his advocate will present their defense with a brief opening statement, as in Rule 13. He may move dismissal of the case, if he believes that the accusations were not sustained by the presented evidence. The Court may sustain the motion or may overrule same. If the motion is overruled, the accused or his advocate may begin to present his witnesses, documents, and arguments in support of his defense. On conclusion, he shall rest his case.

13.02 Each party shall have the right to examine the witnesses presented by the other or called on the initiative of the Court.

13.03 Each party in turn shall be entitled to a closing oral summation and rebuttal at the conclusion of the proceedings. The Court may set a time limit on such summations.

14. Motions

Motions shall be made in writing, except that oral motions may be made during the course of a hearing. All motions shall state the reason in support thereof. Written motions shall be served on the Court and the parties.

14.01 Motions for Extension of Time

Motions for the extension of time will be granted only for a show of good cause.

14.02 Objections

If a motion is made, in writing or orally, all other parties shall have an opportunity to object to same and present reasons to support such objection/so

15. Admissibility of Evidence

Evidence of testimony or documentation may be excluded from consideration by the Court, if it is irrelevant, immaterial, or unduly repetitious. All evidence or testimony submitted by Orthodox Christians shall be submitted under oath.

15.01 The parties may object orally to the admissibility of evidence in the course of the hearing, for any reason in accord with these rules.

16. Transcripts

Verbatim written record shall be made by the scribe of the Court of every hearing and such record shall be the sole official record of the proceeding. A copy of the transcript of the hearing shall be made available to all parties.

16.01 Corrections to Transcripts

Motions to correct the record must be submitted within ten (10) days of the receipt of the transcript. Corrections of the official transcript will be permitted only when errors of substance are involved and only on approval of the Court.

17. Post Hearing

Within ten (10) days after the hearing has ended, either party may file with the Court a written commentary or brief, summarizing the arguments, evidence and testimony produced in support of his position at the hearing.

17.01 Within thirty (30) days after the hearing has ended, the Court will render a decision in the case. The Court's decision shall contain: (a) findings of fact and conclusions, as well as the reasons or basis thereof, upon all the material issues of fact and canon law presented on the record; and (b) an order as to the final disposition of the case, including appropriate penalties.

18. Judgment

If the Court is unanimous in its decision, the decision will be submitted to the Metropolitan Primate for confirmation, together with the record of the proceedings. On confirmation of the Metropolitan Primate, a copy of the judgment will be served simultaneously on each party in the case.

18.01 After study of the proceedings, the Metropolitan Primate may, in exercise of his authority, reject any part or all of the findings of the Court. He may affirm, reduce, or suspend the prescribed penalties.

18.02 A copy of the final judgment as affirmed by the Metropolitan Primate, together with the appropriate penalties prescribed, if any, will be served simultaneously on each party in the case. In the case of an adverse decision, the accused has the right of appeal to the Court of Appeals of the Greek Orthodox Patriarchate of Antioch and all the East, in accordance with the canonical procedures of the said Court.

18.03 If the judgment of the Court is not unanimous, the opinion of each member of the Court and reasons thereof shall be stated in a written brief. If two share the same views, their opinion and reason(s) may be stated jointly. Each such opinion shall contain elements stated in Rule 17.01. Such opinions shall be submitted to the Metropolitan Primate for his review and guidance. He may accept or reject any or all of the views submitted to him. He may, (a) dismiss the case on his own initiative; or, (b) order a new trial; or, (c) submit his own judgment on the merits. In the event of the exercise of option (c), the elements found in Rule 17.01 shall be followed.

18.04 In the event of an abstention of a member of the Court, resulting in a tied decision, the judgment shall favor a finding for the accused.

19. Penalties

 Penalties imposed by the Court, against persons judged guilty after trial, as well as malicious false accusers, are prescribed by the canons of the ecumenical councils, local councils, and the Holy Fathers. Their application as stated in Rule 17.01, is subject to approval of the Metropolitan Primate, who must use pastoral discretion, which belongs exclusively to his office, in applying penalties.

20. Amendment

 These rules are adopted for the purpose of setting forth the procedures which will be followed by the Spiritual Court of the Archdiocese to expedite its work, insure a system of speedy, yet orderly judicial process, safeguarding the rights of the parties, and yet serving justice, which is the paramount motive. To that end, they may be amended from time to time, as the Court may see fit, with the advice and consent of the Metropolitan Primate. Amendments of these rules become effective after thirty (30) days from the date a notice of amendment is sent by mail to all clergy and parishes of the Archdiocese.