

ANGLICAN CHURCH IN NORTH AMERICA

RULES OF PROCEDURE OF THE PROVINCIAL ECCLESIASTICAL TRIAL
COURTS AND THE COURT FOR THE TRIAL OF A BISHOP

Rule 1: Application and Scope of Rules.

These Rules of Procedure are applicable to all Trials in the *Provincial Ecclesiastical Trial Courts*. Presentments brought in *Courts for the Trial of a Bishop* pursuant to **CANON IV.5.2** and *Courts for the Trial of a Presbyter or Deacon in The Court of Extraordinary Jurisdiction* pursuant to **CANON IV.5.3(a) and (b)** with regard to Presentments, and actions within *The Provincial Tribunal*. The Rules will be construed and administered to secure the just, speedy, and inexpensive determination of every action brought within the Provincial Ecclesiastical Trial Courts of the Province.

These Rules recognize and acknowledge the presumption of innocence of the accused and right to representation by counsel, are consistent with principles of fairness, due process, and natural justice and require expeditious handling consistent with those principles.

In all Provincial Trial Courts of original jurisdiction, the standard of proof is by clear and convincing evidence.

Rule 2: Institution of Actions.

- (a) **Presentment Proceedings.** Presentment proceedings authorized by **Title IV** shall be instituted by service of a copy of the Presentment.
- (b) **Summons.** The Summons shall be signed by the Presiding Officer of the Court, identify the Court and the parties to the proceeding, be directed to the Respondent and state the same and address of the trial attorney representing the Province, and time within which Respondent must file an Answer to the Presentment to the Court will be stated. The Presentment, or Articles of Presentment, will also notify the Respondent that failure to do so may result in a Judgment that an Offense was committed by the Respondent and place the Respondent at risk for a Sentence to be pronounced at a later date.
- (c) **Service.** The Service of the Presentment shall be made either by hand-delivery or Certified Mail with a Return Receipt.
- (d) **Proof of Service.** The person effecting the service of the Summons with a copy of the Presentment will make Proof of Service by Affidavit or sworn statement to the Court. If service is waived, the written Waiver of Service shall be filed with the Court.

Rule 3: All Other Actions.

- (a) All other actions or suits in the Ecclesiastical Trial Courts will be initiated by the filing of a Petition, Complaint, or other leading pleading setting forth in numbered paragraphs, the facts upon which the pleading is founded, the specific allegations alleged in numbered sentences or paragraphs, and specific relief requested.
- (b) **Summons.** The Service of a Summons with a copy of the Petition, Complaint, or other leading pleading will be signed by the President or other presiding officer of the Court, identify the Court and the parties, be directed to the Responding Party(ies), and state the name, address, and telephone number of the attorney representing the party filing the action. The Summons shall also inform the opposing party that failure to respond, without leave of the Court, may result in a Motion for Default or Summary Judgment.
- (c) **Service.** The Service of the Petition, Complaint, or other leading pleading shall be made either by hand-delivery or Certified Mail with a Return Receipt.
- (d) **Proof of Service.** The person effecting the service of the Summons with a copy of the Petition, Complaint, or other leading pleading will make Proof of Service by Affidavit or sworn statement to the Court. If service is waived, the written Waiver of Service shall be filed with the Court.

Rule 4: Service and Filing of Pleadings and Other Papers.

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

Rule 5: General Rules of Pleading.

- (a) **Articles of Presentment:** The Articles of Presentment shall contain a short and plain statement of each Offense with the express reference to applicable provisions of **Canon IV.2**, and a plain concise statement of the facts upon which each such allegation is made.
- (b) **All Other Actions.** All other actions initiated by Petition, Complaint, or other leading pleading shall set forth specific facts upon which the pleading is based in a plain and concise statement of facts in numbered sentences or paragraphs. The Petition,

Complaint, or other leading pleading will also set forth the specific allegations arising from said facts with specificity, and specifically set forth the relief requested.

(c) Answer.

(1) Presentments. Within thirty (30) days of being served with the Presentment, an Answer or Response shall be filed by the Respondent or his or her attorney. 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 each factual allegations of the Articles of Presentment.

(2) Other Actions. Within thirty (30) days of being served with the Petition, Complaint, or other leading pleading, the party served, or the party's attorney, will file an Answer. The Answer shall include any defense thereto, and shall admit or deny the factual allegations of the Petition, Complaint, or other leading pleading. If the Responding Party 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.

If the Answer made is to a Petition, Complaint, or other leading pleading, the Responding party may also include any Counterclaim, or in the case of multiple Responding parties, any Crossclaim. Any such Counterclaims or Crossclaims shall be in the form and manner required of initial Petitions, Complaints, or other leading pleadings.

(3) Style. Pleadings are to be plain and concise. No technical forms of pleadings or motions are required.

(4) Construction. All pleadings shall be construed as to do substantial justice.

(5) Forms of Pleadings. Every pleading shall identify the name of the Court, name of the Respondent(s) and opposing party(ies), and file number, if any. Exhibits may be attached and identified by reference within the pleading.

(6) Signature. All pleadings shall be signed by the attorney for the party on whose behalf it is has been prepared, or the party if not represented by an attorney. Each paper shall state the signer's address and telephone number.

Rule 6: Defenses and Objections.

(a) When Presented.

(1) Presentments. 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 thirty (30) days after being served with a Summons and Articles of Presentment.

(2) Answer to Petition, Complaint, or other Leading Pleading. The Answer shall be served upon the attorney of record for the Petitioner, Complainant, or person who has otherwise filed an action within thirty (30) days after being served.

(b) How Presented. The following defenses may be asserted by Motion, or by Answer:

- (1) Insufficiency of service of process;
- (2) Lack of jurisdiction;
- (3) Failure to state the factual basis of the action, or in the case where Presentment, failure to state the factual basis of an Offense; and
- (4) Expiration of the applicable period of limitations as set forth in **Canon IV.3.2(a) or (b).**

(c) More Definite Statement.

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

(2) Other Actions. The person or entity responding to a Petition, Complaint, or other leading pleading may also move for a more definite statement before filing an Answer if the Petition, Complaint, or other leading pleading is so vague or ambiguous that the Responding Party cannot reasonably be required to frame a responsive pleading.

Rule 7: Amended and Supplemental Pleadings.

The Court may, in the interest of justice, permit the filing of amended and supplemental pleadings so that the purpose, interest, and intent of these rules as set forth in the applicable Provincial Canons can be carried out.

Rule 8: Voluntary Disclosures, Discovery.

(a) Voluntary Disclosures. The Parties shall provide to each other and the Court not later than sixty (60) days prior to trial a list of all the witnesses expected to testify at trial, including the name, phone number, address, and electronic 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. All discovery in the Ecclesiastical Trial Courts will proceed apace from the date service of process is completed. The Court may limit the number, length, and scope of depositions or interrogatories.

The Respondent in Presentment Cases shall not be required to make any statement or admission against himself or herself in any discovery procedure.

Rule 9: Taking of Testimony.

- (a) 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.
- (b) Such testimony shall be given under oath or solemn affirmation. For Christians, the oath or solemn affirmation shall include the words, "So Help Me God."
- (c) In appropriate circumstances, and upon Motion for good cause shown, such as due to physical distance, extreme health conditions unlikely to improve before the trial of the case, or to preserve testimony of someone in threat of death, the Court may for good cause shown allow deposition testimony of a witness be taken for trial.

Rule 10. Summary Judgment.

(a) How Made.

- (1) In Presentment Cases.** 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 for the Presenting Diocese or Province may no sooner than thirty (30) days after the Answer is due, move with or without supporting affidavits for Summary Judgment of Offense on all or part of the allegations in the Presentment.

The Trial Attorney or Church Attorney representing the Ecclesiastical Jurisdiction bringing the Summary Judgment shall file the Motion with any supporting affidavits with the Court, serve a copy of the same on the Respondent and his or her attorney. The Motion shall be served at least twenty (20) days before the time fixed by the Court for a hearing on the Motion.

- (2) All Other Disputed Cases Before any Ecclesiastical Trial Court in Matters of Original Jurisdiction.** If the Responding Party fails or refuses to Answer the Petition, Complaint, or other leading pleading, or to otherwise respond by motion, except for reasonable cause to be allowed by the Court, the attorney who has filed the action may no sooner than thirty (30) days after the Answer is due, move with or without supporting affidavits for Summary Judgment. The responding party may also move with or without supporting affidavits for Summary Judgment on part or all of the allegations of the Petition, Complaint, or other leading pleading.

(b) Opposing Affidavits.

(1) The Respondent in a Presentment Action. Prior to the day of any hearing set by the Court on a Motion for Summary Judgment, the Respondent to the Presentment Action may submit affidavits in support of his or her response to the Motion.

(2) All Other Disputed Cases Before any Ecclesiastical Trial Court in Matters of Original Jurisdiction. The Responding Party to the Petition, Complaint, or other leading pleading, may submit affidavits in support of the response to the Motion up to _____ days before the hearing.

(C) Proceedings on Motion for Summary Judgment. 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.

(1) In Presentment Cases. If the Articles of Presentment, together with the Affidavits, if any, and oral testimony or other admissible evidence presented to the Court shows that there is a genuine issue as to any fact material to a determination, the Court shall deny the Motion for Summary Judgment.

If the Articles of Presentment, together with the 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 the determination that the Respondent committed an Offense, the Court shall render Summary Judgment as sought by the Motion for Summary Judgment.

(2) In all Other Cases of Original Jurisdiction in the Ecclesiastical Trial Courts. 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 Petition, Complaint, or other leading pleading and Answers, together with the Affidavits, if any, and oral testimony or other admissible evidence presented to the Court shows that there is a genuine issue as to any fact material to a determination, the Court shall deny the Motion for Summary Judgment on that fact or issue. Or, if there is found to be no genuine issue as to any fact material to the determination pending before the Court, the Court shall render Summary Judgment as to that fact or issue sought by the Motion for Summary Judgment.

The Court's Order on any Motion for Summary Judgment shall set forth the facts for which the Court found there was, or was not, a material issue of fact for rendering summary judgment. Summary Judgment may be granted in whole, or in part. All matters upon which the Court denies Summary Judgment will proceed to trial.

(3) Form of Affidavits. Supporting and opposing affidavits shall be made, under oath, on the basis of personal knowledge, shall set forth facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify as to

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

- (4) Defense Required.** When a Motion for Summary Judgment 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 11. Trials.

- (a)** The President of each Provincial Trial Court will serve as the presiding officer of each Trial, unless the members of each Trial Court shall appoint another member of the Court to serve as Presiding Officer.
- (b)** The President or Presiding Officer of each Provincial Trial Court shall appoint a Court Reporter to record the proceedings of each Trial and mark Exhibits as received.
- (c)** The President or Presiding Officer of each Provincial Trial Court shall call the Court to Order and the President or Presiding Officer shall be charged with maintaining proper court room order and decorum.
- (d)** The Standard of Proof shall be by clear and convincing evidence in all Provincial Trial Courts of original jurisdiction.
- (e) The Burden of Going Forward and the Burden of Proof.**
- (1) Presentments.** In all Presentments, the burden of proof, and the burden of going forward, on each allegation will upon the Ecclesiastical authority bringing Presentment. The Respondent in Presentment actions shall have the burden of proof, and the burden of going forward, on any Defense(s).
- (2) All Other Actions.** In all other actions brought pursuant to these Rules, the party filing the actions by Petition, Complaint, or other leading pleading, shall have the burden of proof, and the burden of going forward, on each fact and allegation. The party against whom the Petition, Complaint, or other leading pleading has been brought, shall have the burden of proof, and the burden of going forward, on each defense. Any party filing a Counterclaim, or Crossclaim, shall have the burden of proof, and the burden of going forward, on each act and allegation contained therein.
- (f)** The Court may allow concise and direct opening statements by all parties. Where appropriate and helpful to the Court, the Court may at the close of all proof allow closing statements by each party.
- (g) Order of Proof.** The party, or attorney, who filed the Presentment, Petition, Complaint, or other leading pleading shall then proceed to call its witnesses and introduce evidence on each factual allegation. The Respondent to a Presentment, or in

all other actions, the responding party, will then proceed to present all of the witnesses and evidence on his, her, or their behalf.

- (h) If there are questions concerning the introduction of evidence, the Trial Court may be guided by reference to the Federal Rules of Evidence.
- (i) All witnesses and parties are expected to appear before the Trial Court with clean hands and a pure heart, not lifting up his or her soul to what is false, and does not swear deceitfully. Ps. 24.4. To that end:

- (1) **Presentments.** In all Presentments, no testimony shall be received at the Trial except from witnesses who have signed a Declaration consisting of the following words, to be read aloud before the witness testifies and to be filed with the records of the Trial Court.

“I, A.B., witness on the trial of a Presentment against Rev. _____, a Presbyterian (or Deacon) (or Bishop) of the Anglican Church in North America, now pending, do most solemnly call God to witness that the evidence I am about to give shall be the truth, the whole truth, and nothing but the truth, So Help Me God.”

- (2) **In All Other Actions.** In all other Trials, no testimony shall be received at trial except for witnesses who have solemnly sworn to the President or Presiding Officer of the Trial Court.

“Do you, _____, solemnly call God to witness that the evidence that you are about to give shall be the truth, the whole truth, and nothing but the truth, So Help You God?”

- (j) The Trial Court may, in the interest of justice, sequester witnesses.

Rule 12: Judgment.

- (a) The affirmative vote of not fewer than a majority of the members of the Court shall be required for any Judgment rendered.
- (b) **Presentments.** The Court shall render its Judgment, in writing, no later than sixty (60) days after the Trial. The Court shall declare its opinion about whether the accused is guilty or not guilty as to each count or allegation.
- (c) **In All Other Actions.** The Court shall render its Judgment no later than sixty (60) days after the Trial. The Court shall declare its opinion in writing setting forth a statement of the case, a description of the positions taken by the parties, summaries of the proof and evidence, as necessary, and the holding of the Court as the Court deems appropriate.