

Application for a Declaration of Marriage Nullity

WHAT IS MARRIAGE?

The Catholic Church understands marriage to be an exclusive and permanent relationship whereby a man and a woman establish between themselves a partnership of the whole of life. Marriage is more than a legal contract; it is a sacred bond that is “ordered toward the good of the spouses and the procreation and education of children” (c. 1055).

HOW DOES A VALID MARRIAGE COME INTO BEING?

A valid marriage is brought into being through the consent of the parties provided it is legitimately manifested by persons who are legally capable.

Catholics, ordinarily, are bound by “the form of marriage.” If, therefore, at least one of the parties are Catholic, the marriage must be celebrated in the presence of a Catholic priest or deacon and two witnesses. If both parties are non-Catholics, they are not bound by the Catholic form of marriage and can validly be married in the presence of a minister or a civil official.

Since marriage enjoys the favor of the law, a marriage is presumed to be valid unless proven otherwise.

WHAT IS AN ANNULMENT?

Marriage is more than the mere exchange of words or promises. In consenting to marry, two persons must have the basic knowledge, intention, and capability of forming a permanent and exclusive partnership of the whole of life. An annulment is a judgment by a Church Tribunal that one of the essential elements for a valid marriage was not present at the time of consent. An annulment is a declaration that a valid marriage bond never existed from the beginning. A divorce, by contrast, is a dissolution of the bond of marriage irrespective of whether or not the marriage was valid.

An ecclesiastical declaration of nullity does not affect the legitimacy of children provided at least one of the parties entered the union in good faith (c. 1137).

An ecclesiastical declaration of nullity has no civil effects whatsoever.

GUIDELINES FOR PRESENTING A FORMAL PROCESS

PETITION

A petition for a marriage annulment is sent to a Diocesan Marriage Tribunal. A Diocesan Marriage Tribunal is composed of a group of persons, appointed by the Bishop, who have expertise in canon law, in particular, the Church's law on marriage.

The Tribunal will accept a petition that provides some credible evidence that the relationship to be investigated lacked one of the essential elements for marriage. The ideal is for cases to be completed within 12-18 months.

HOW TO INITIATE A PETITION

The Petitioner must complete the preliminary questionnaire. If you have not already done so, you must contact your local parish office to enlist the help of a priest or a Tribunal Aide to assist you in preparing your petition. The completed questionnaire, along with all the required documents, will be sent to the Tribunal by the parish.

The preliminary questionnaire is comprised of the following elements:

a. Petition For Declaration Of Marriage Nullity

This section requires the Petitioner to furnish the name, current address and phone number of his or her former spouse. The law of the Church requires that the former spouse be informed of the process and invited to participate. If the former spouse refuses to participate or is truly not locatable, it is possible, nevertheless, to proceed with the annulment process provided there is ample testimony from other sources. Proof of attempts to locate the Respondent must be included with the petition using the form: "Search for Address of Former Spouse."

It is advisable that the Petitioner notify the former spouse of the process before the Tribunal contacts the party directly.

b. Concerning Myself/Concerning My Former Spouse

The questions in this section deal with the family background, growing up experiences and personality development of the parties. While it can be painful to recall and relate such experiences, they can provide information that is important in understanding the motivation for marriage and/or the subsequent breakdown of the marriage in question.

c. Courtship and Married Life

The annulment process seeks to prove that one of the essential elements of marriage was not present at the time of consent. It is important, therefore, to provide detailed information regarding problems, unusual behavior, or unusual circumstances that surfaced during courtship and/or the early years of married life. Where a marriage lasted for a significant period of time, it is essential to highlight problems that surfaced early in married life and continued throughout the marriage.

Also, one should be as objective as possible in determining the reasons for the marriage

breakdown. Objectivity requires an honest appraisal of the character and actions of both parties.

d. List of Witnesses

The testimony of several witnesses is required in order to assist the Tribunal in understanding what led to the demise of the marriage under investigation. While the names of six witnesses are required and it is standard practice to cite them all, it is not out of the norm for only two or three witnesses to provide quality information. Witnesses may be close relatives or friends who knew the parties both before and after the celebration of marriage. Witnesses should be listed in order of importance. Witnesses need to be identified at a definite address, not a last known or possible address. A current home or work telephone number is also of vital importance.

The Petitioner should notify the witnesses that he/she has submitted annulment petition and to expect a church official to contact them.

e. Required Documents

1. Vital statistics (civil marriage license)
2. Final divorce record. (Interlocutory decree not acceptable)
3. Baptismal record of the Catholic Party

f. Initial Deposit

The Petitioner is asked to include a \$100.00 non-refundable deposit with the initial petition. Checks should be made payable to the ***Roman Catholic Bishop of Stockton.***

PROCESS

Preliminary Investigation

When a Petitioner has sent all the required forms to the Tribunal, the Judicial Vicar constitutes the court for the case, assigning a Judge (or Judges), a Defender of the Bond, and a Notary. From reading the information provided by the Petitioner, a preliminary decision is made concerning the grounds on which the case will be heard. The Petitioner and Respondent are then notified of these developments. At this time, the parties also are invited to appoint a Procurator-Advocate. A Respondent has fifteen days to respond to the Tribunal's request for information. If a Respondent is unable to be located or chooses not to participate, the process will proceed.

After reviewing any additional information provided by the Petitioner and Respondent, the Tribunal determines formally the grounds on which the case will be judged. The parties will be notified of these grounds and given ten (10) days to make recourse to the Judge, if desired.

Probative Phase

In the probative phase, evidence is collected, the parties are interviewed (when necessary), and witness testimony is gathered. When the Judge thinks that enough evidence has been gathered, he informs the parties and their Advocates that they may review the acts of the case. It should be noted that the judge can limit, in specific instances, the evidence that can be reviewed.

Decision and Review Phase

Before the case is decided by the Judge(s), the Defender of the Bond must review the case and present his/her insights to the Tribunal. The parties enjoy this same right, but normally, it is exercised through an Advocate. Once the Tribunal has reached a decision on the matter, the definitive sentence is written.

For cases heard by the Tribunal of the Diocese of Stockton in First Instance, the Tribunal of the Archdiocese of San Francisco is the Appeals Court. The parties will immediately be notified of the decision. However, prior to such notification, no plans for a second marriage can be made or dates set for such a second marriage. Neither this Tribunal nor any officiating minister will be bound by dates set prior to final notification.

If a party wishes to lodge an appeal (regarding the content of the Tribunal's decision) or a complaint of nullity (concerning some procedural defect) against the First Instance decision, he or she is free to approach (through the Tribunal of the Diocese of Stockton) either the Tribunal of the Archdiocese of San Francisco or the Roman Rota.

CURRENT ESTIMATE OF COST

The current cost estimate of \$800.00 includes a \$100.00 non-refundable deposit. Upon receipt of the completed testimony from Church-appointed Auditors, the Petitioner will receive a bill for that testimony. Tribunal expenses, e.g., judicial fees, administrative fees, are due and payable at the time the Tribunal renders its definitive decision.

Any extraordinary expenses will also be the Petitioner's responsibility. Examples of extraordinary expenses would be a psychiatric review, or the necessity of securing testimony under very difficult conditions.

Should there be dire financial stress, the Petitioner can make payment arrangements according to their financial situation. No case is ever rejected on the basis of financial condition.