



# Diocese of Victoria

## Office of the Tribunal

P.O. Box 4070 | Victoria, Texas 77903 | (361) 573-0760

### FREQUENTLY ASKED QUESTIONS ABOUT “ANNULMENTS”

The ending of a marriage is a difficult experience, and divorce is one of life’s tragedies. Many marriages end in divorce in spite of good intentions and the establishment of a family. The Catholic Church is sensitive to the pain and stress that a failed marital relationship brings to all involved. A primary role of the Tribunal of the Diocese of Victoria is to assist people who petition for a possible annulment. Unfortunately, there are many misconceptions about annulments in the Catholic Church. This informational handout provides answers to the most frequently asked questions about annulments.

#### 1. What is an annulment?

In order to answer this question, one must understand what marriage is in the eyes of the Catholic Church. The Church understands marriage to be a “matrimonial covenant, by which a man and woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring” (Canon 1055, §1). It is intended to be a faithful and permanent commitment for one’s whole life, until the death of one of the spouses (Canon 1056).

Marriage may or may not be a sacrament. It is a sacrament when both spouses are baptized, whether Catholic or not. All marriages (Catholic, Orthodox, Protestant, Jewish, other non-Christian, non-believer), whether a sacrament or not, are presumed to be valid. The good of all concerned (spouses, children, family members, society, the Church) demands this presumption. The Catholic Church remains faithful to the words of Jesus Christ about marriage, divorce and remarriage (Mk. 10:2-12; Lk. 16:18; Mt. 5:31-32; Mt. 19:3-11; 1 Cor. 7:10-11, 39; Rom. 7:2-3). For a fuller understanding of the teachings of marriage, please consult the *Catechism of the Catholic Church*, #1601-1666.

Every marriage, from its beginning, is presumed to be valid. Thus, it is binding until the death of one of the spouses (1 Cor. 7:39; Rom.7:2-3). With every presumption, the opposite may be true. If sufficient evidence shows that a particular marriage is invalid, the original presumption of validity no longer holds. The quality of the spouses’ consent given at the time of the marriage ceremony is of extreme importance. If a person did not fully comprehend the nature of marriage prior to consent, or did not freely give consent, or did not intend marriage as understood by the Church (i.e., permanence, fidelity, openness to children, etc.), or was not capable of fulfilling the rights and duties of marriage, then the person entered into a relationship that lacked a key element(s) of marriage as understood by the Catholic Church. Thus when a marriage does not reflect this understanding, then it is considered “invalid” or “null.” When it can be substantiated through the nullity process that a specific marriage is invalid, then the Church can issue a “declaration of nullity,” stating the original presumption of validity from the beginning of marriage was incorrect. The Church is not declaring a new reality, but a reality that actually existed from the beginning. What is “new” is that the presumption of validity from the beginning is now declared incorrect.

#### 2. I have only heard the term “annulment” used. Why are you using the expression “a declaration of nullity?”

The term “annulment” is the common term used by most people. Please know that the Church’s definition of an annulment is very different from the definition found in a regular dictionary. The common understanding of an annulment has many unfortunate connotations which imply that the Church is doing something to your marriage. That is not true. Instead, the Church is making a statement about the marriage. If an annulment is rendered, the Church is stating that some key element(s) was missing from the very beginning which rendered the marriage invalid. Instead of using the word “annulment,” the proper terminology in Church teaching is a

“declaration of nullity,” i.e., a declaration stating that a marriage was invalid and thus not binding until the death of one of the spouses.

### **3. Does a declaration of nullity “wipe out or erase the years of my married life as if they did not exist?”**

**NO.** This is another reason why it is better to use the term “declaration of nullity” instead of “annulment.” A relationship did indeed exist for a certain amount of time, and that relationship was recognized by civil law. Children may have come from that relationship. There were undoubtedly some other good aspects of the relationship. But if a declaration of nullity is rendered, it states that the marital relationship lacked one or more of the elements that the Catholic Church considers essential to form a valid, binding union until the death of either spouse. The Church is not declaring anything necessarily new or not doing anything to the marriage. Rather, it is making a statement about the reality of the marital relationship. Although the relationship resembled a marriage, there was some key element(s) missing that prevented a marriage from being valid and binding until the death of either spouse.

### **4. What is Canon Law? Why must the Church have so many laws? What is a tribunal?**

Every organization in society has its laws and rules for the effective ordering and living out of that organization. The Catholic Church has her own set of laws and rules called Canon Law (*Code of Canon Law*). Some of the laws are of divine origin, and others are of human origin. Over time, the Church has seen the need to establish common laws so that all members of the Church are treated equally and fairly, with their rights protected. Canon Law is more than just a set of laws and rules. It is the Church’s “policy book” that contains, in statements called “canons,” the Church’s mission and teachings, definitions, suggestions on how things should occur, and yes, laws and rules.

A tribunal office is the judicial office of the diocese, as mandated by Canon Law. A primary function is to review petitions that have been submitted for an ecclesiastical declaration of nullity. In all civil and religious societies, there is the practice of bringing a disputed issue to a competent authority in the community for a resolution. This practice was recorded in the Bible (Ex. 18:13-26; Mt. 18:15-18; Acts 15:5-6), and it is a practice the Church continues to maintain. If there is a question regarding whether a specific marriage is valid and binding until the death of one of the spouse(s), the issue is brought before the Church community through a tribunal office.

The process for a declaration of nullity has the same procedural steps in all tribunals of the Catholic Church, since every tribunal is mandated to follow Canon Law. However, each tribunal has its own ways to implement those procedural steps. Each tribunal will have different questionnaires, forms and practices designed to meet the unique needs of any given locality.

The Tribunal is staffed by canon lawyers (clergy and lay people with a graduate degree in Canon Law) and an experienced administrative staff. The director of a tribunal is called the Judicial Vicar or *Officialis*. Those who make the final decision are canon lawyers. Each decision is rendered by a panel of three canon lawyers or, in the shortage of canon lawyers for pastoral necessity, a decision may be rendered by one canon lawyer.

### **5. I am divorced. Why does the Catholic Church not recognize it?**

A civil divorce is a civil reality. Although a civil divorce has given you the right to marry in the civil realm, it does not grant you a similar right in the Catholic Church. The Catholic Church remains faithful to the teachings of Jesus Christ about marriage, divorce and remarriage (Mk.10:2-12; Lk.16:18; Mt.5:31-32; 19:3-11; 1 Cor.7:10-11, 39; Rom.7:2-3). Jesus Himself never gave anyone the right to remarry after divorce as long as the previous spouse is still living (cf. *Catechism of the Catholic Church*, #1650).

### **6. What authority does the Catholic Church have to determine if I can or cannot divorce and/or remarry?**

Marriage is not just a private relationship between two spouses, but a personal relationship lived out in society. As a social reality, marriage is also a Church reality. When a marital relationship breaks down, the Catholic Church is very concerned about its impact on the couple, their children (if any) and family members, the people of God in society and the stability of the institution of marriage itself. The issue is not so much that one cannot divorce, but rather one cannot divorce AND remarry as long as the previous spouse is still living (Rom.7:2-3). The Catholic Church is remaining faithful to the teachings of Christ, and the Church has no authority to allow for remarriage after divorce as long as the previous spouse is still living (cf. *Catechism of the Catholic Church*, #1650).

**7. Is not a Church declaration of nullity the same as a “Catholic divorce?”**

**NO.** Divorce is a civil legal reality. Divorce is a dissolution of a civilly valid marriage. No human power can dissolve a valid, consummated, sacramental marriage (Mk. 10:9; cf. *Catechism of the Catholic Church*, #164, 1640). Remember, a declaration of nullity states the marital relationship lacked one or more of the elements that the Catholic Church considers essential to form a valid, binding union until the death of either spouse. In other words, a valid and binding union did not come about at the time of the marriage ceremony, as the community presumed it did.

**8. I have a civil annulment or an annulment from a non-Catholic church. Do I still have to petition if I want to marry in the Catholic Church?**

**YES.** You will have to petition. Neither is binding upon the Catholic Church.

**9. Does a declaration of nullity have any effect in civil law?**

**NO.** In the United States, this process is for spiritual and ecclesiastical purposes only and has no effect whatsoever upon civil law. This process pertains only to the internal governance of the Catholic Church. It does not affect anything that is determined by civil law in the divorce decree, such as division of property, legitimacy of children, child support, custody and visitation rights, etc.

**10. Does a declaration of nullity make my children illegitimate?**

**NO.** Any children born of this marriage remain as they have been: the legitimate and fruitful offspring of that marriage. Canon Law upholds this reality (Canons 1137-1138). One must always remember that children are part of God’s creation and thus are gifts from God. The term “legitimacy” refers to the paternity of the child. It is presumed in civil law and Canon Law that the husband married to the wife who bore a child is indeed the father of the child. No one nor any declaration of nullity can ever take away the paternity of a child.

**11. But did not Jesus allow remarriage, if one committed adultery in a previous marriage (Mt. 5:32; 19:9)?**

Infidelity is a sin, a failure to live out the commitment toward fidelity (Ex.20:14). Adultery in itself is not grounds for nullity. The way infidelity could be grounds for nullity is if a spouse entered the “marriage” with the intention to be unfaithful (i.e., not accepting the premise that marriage is exclusive). There is a difference between a person who has an intention against fidelity and a person who intends fidelity in marriage but sins in a failure to be faithful.

Although some bible translations have used the word “adultery” in the Gospel of Matthew’s exception clause, that translation, unfortunately, does not accurately reflect the original Greek word “*porneia*.” Jesus was speaking about the permanence of marriage until the death of one of the spouses. It would seem contradictory for Jesus to speak of permanence and allow for such an exception. If that were true, then any spouse who wanted to divorce and remarry would only have to commit the sin of adultery (Ex.20: 14). A more accurate, biblical translation of the original Greek text is “illicit unions.” The Gospel of Matthew is the only gospel that has this exception. But in the context of the Matthew community, there were individuals who wanted to convert to Christianity. Some individuals were “married” to blood relatives (1 Cor.5:1). These “marriages” were considered “illicit unions” which were invalid marriages by Jewish law (Leviticus 18). A person who

was in such an “illicit union” was allowed to be released from such a relationship, convert to Christianity and allowed to marry another person. What appears to be an “exception” is not one since the “marriage” was invalid in Jewish law due to the appearance of incest. The Church would also recognize such “illicit unions” as invalid. The Council of Jerusalem continued this condemnation (Acts 15:29).

**12. Are there different types of petitions for a declaration of nullity?**

**YES.** It is the function of the Case Sponsor to determine what type of petition you must complete. The most common petitions are a Formal petition, an Absence of Canonical Form petition and a Prior Bond (*Ligamen*) petition. There are different procedures for the different types of petitions. Your Case Sponsor will assist you.

**13. The Church is not fair! I was not the one who wanted the divorce. My spouse left me. Jesus is loving and forgiving. How can the Church forgive murderers but will not forgive the divorced?**

The sad reality in failed marriages is that fairness does not occur. Sometimes, one spouse is more responsible for and/or desires a divorce more than the other. But even when the other spouse has no desire to remain faithful to the marital vows and desires to divorce, that situation does not give the other spouse the right not to remain committed to the marital vows. Jesus does love each one of us and does forgive us for our sinful actions when we are repentant. But Jesus never gave anyone the right to remarry after divorce as long as the previous spouse is still living (1 Cor.7:39; Rom.7:2-3). The Church has a responsibility to be faithful to Jesus’ teaching on marriage, divorce and remarriage. The Church has an obligation to respect the public vows that a husband and wife professed before God and the community and to hold both spouses faithful to those vows, even when one or both spouse does not want to do so. The Church will forgive any sinful act(s), including murder, provided a person is repentant for one’s sins and does not desire to commit that sin again. The only exception is to “blaspheme against the Holy Spirit” (cf. *Catechism of the Catholic Church*, #1864). The Church will forgive any sinful act(s) that may have been committed during a marriage, a separation and a divorce, if one is truly repentant.

**14. Who gave the Catholic Church the right to judge me in this process?**

It is not an issue of judging you, but rather holding spouses accountable to the presumably valid marital vows and investigating if your marriage is a valid and binding union until the death of one of the spouses. There are numerous examples in the Bible that challenges us to hold one another accountable (Lk. 17: 3-4; Gal. 6: 1-10; I Th. 5:14-22; 2 Th. 3:10-15; 2 Tim. 3:14-17, 4:1-5; Titus 1:9-16; etc.). Like you, the Catholic Church believes marriage is very important. Your willingness to share personal and intimate realities about yourself, your former spouse and your previous marital relationship helps the Tribunal to understand if your marital relationship was reflective of the Catholic Church’s understanding of marriage. This process does not seek to place blame or find fault but rather to understand the relationship.

**15. Who can begin this process? How does one begin?**

Any civilly divorced person, whether Catholic or not, may initiate this process. One contacts a local Catholic parish to set up an appointment with a Case Sponsor. A Case Sponsor is a priest, deacon or lay person designated by the parish who will serve as an informational source, guide and emotional support for you throughout this process. The Case Sponsor will determine what type of petition you will have to complete. (There is no fee associated with obtaining a petition form or for the services of a Case Sponsor.) No petition can be submitted to the Tribunal without the assistance of a Case Sponsor.

**16. I am not Catholic and have no intention of becoming Catholic. Why do I have to petition? How can the Church apply its understanding of marriage on me when I am not Catholic?**

Most likely, you desire to marry a Catholic in the Catholic Church. It often is hard for non-Catholics to understand the necessity for this process, but the Catholic Church respects the integrity of all marriages of any kind [religious, convalidation, civil court (justice of the peace, etc.), common law, etc.]. Although a civil divorce has given you the right to marry in the civil realm, it does not grant you a similar right in the Catholic Church. Please know that becoming a Catholic is not required for this process or for marriage in the Church.

The Church’s understanding of marriage is being applied to all marriages since the understanding is rooted in human nature and the nature of marriage (natural law). And Jesus’ law is rooted in that reality. The Church’s understanding of marriage is not necessarily different from other denominations and religions. What is different is

the Church's understanding is based upon Jesus' teachings that one may not remarry after a divorce as long as the previous spouse is still living (1 Cor.7:39; Rom.7:2-3). And Jesus' teachings apply to all people, not just Catholics.

**17. I was married more than once. Do I have to petition for each previous marriage?**

**YES.** A petition for nullity must be submitted for each and every failed marriage of any kind [religious, convalidation, civil court (justice of the peace, etc.), common law, etc.] provided the previous spouse(s) is still living and that marriage(s) has not been declared null by the Catholic Church. Each and every previous marriage must be reviewed, either through a petition or the submittal of a death certificate of a previous spouse(s). This is required, whether one is a Catholic or non-Catholic (baptized or non-baptized). Without an affirmative decision(s) for nullity and/or a death certificate(s), one cannot marry in the Catholic Church. Your Case Sponsor will assist you with each petition.

**18. I do not want to make myself, my former spouse and/or others “look bad” in this process. How can I complete the petition without doing so? How can I be assured that the truth of the relationship will be revealed?**

The truth may not always be complimentary to a person and/or situation, but this Tribunal still needs to know the complete truth of the relationship. Thus it is not an issue of making anyone “look bad,” but an issue of revealing the complete truth. Please reveal the truth in a spirit of charity and love. You can be assured that the truth will be revealed first by revealing the complete truth about yourself, your former spouse and your marital relationship. Honesty is always the best policy. Secondly, even if someone gives false and/or misleading statements, the purpose of this Tribunal is to ascertain the truth. That is also why witnesses are necessary for this process: to substantiate the truth of the relationship.

**19. Why is this process so involved and requires the sharing of such personal and intimate realities of my relationship with my former spouse, including sexual aspects?**

The Church values the institution of marriage and your previous marital vows. Plus, the Church is remaining faithful to the teachings of Christ. Marriage, like all human relationships, is indeed a personal relationship, involving many intimate realities. Therefore, questions are asked of your marital relationship to determine how reflective it was of the Church's understanding of marriage. A part of any healthy, marital relationship is the important area of relational dynamics. A husband and wife relate to each in many different ways. One important way is through physical intimacy. Physical intimacy is a beautiful gift from God to married couples. It is normally reflective of the quality of the marital relationship. Thus, if physical intimacy was lacking in the marital relationship, then one must consider why and perhaps what was wrong with the rest of the relationship. Plus, if physical intimacy was not expressed in a healthy, normal manner, then that type of behavior would not be consistent with a healthy, marital relationship.

**20. Why do I have to rehash old, painful memories? Shouldn't I just forget the past?**

We realize that participating in this process can be a difficult and painful experience because of the memories it recalls. However, many have found it to be quite helpful in their personal growth and spiritual life, since it can bring much needed closure if that has not yet occurred. Healing and closure from a previous marriage are so important before one attempts to enter a new relationship. If this process brings renewed pain or concern over unhealed issues or difficult memories, there are support groups for divorced persons, and professional assistance available to you from your parish, Catholic Charities and other professional social agencies.

**21. Why must my former spouse be contacted in this process? Do you not trust my word?**

It is not an issue of not trusting you, but rather an issue of justice and respect toward your former spouse. Your former spouse has an essential right to know that this process is occurring, just like your former spouse had a right to know that a civil divorce proceeding began. Failure to contact the former spouse can result in this entire process being declared invalid.

**22. What if I do not know where my former spouse lives? What if he/she cannot be located?**

A former spouse can be found most of the time, using today's technology. Consult your Case Sponsor who has a list of suggestions on how to locate your former spouse. In only the rarest of instances, the whereabouts

of the former spouse might be unknown, especially when the divorce occurred many years ago and there were no children from the marriage and/or no contact with the former spouse. If all means have been exhausted to locate him/her, your former spouse could be cited through his/her family member. If the former spouse and his/her family truly cannot be located, you must document in writing all the steps that have been taken to locate your former spouse and his/her family. The petition will continue eventually, but the Tribunal will appoint an advocate/procurator to represent your former spouse.

**23. Is it helpful if my former spouse participates in this process? Can my former spouse prevent this process from occurring? Must my former spouse agree or “sign off” before the petition continues? What if my former spouse will not respond?**

The Tribunal always encourages the former spouse to participate and share his/her side of the marital relationship and its failure. It is always good to have both sides of the story. Your former spouse cannot prevent this process from occurring. Your former spouse does not have to agree or “sign off” so that the petition may continue. However, your former spouse does have the right to appeal any decision that he/she does not support. In a formal nullity process, the Tribunal will contact your former spouse by mail, and he/she will be given three options: (1) To participate fully by completing a similar questionnaire and have the opportunity to submit or not submit witnesses; (2) To decline to participate fully; (3) To have no further contact with this office. If your former spouse does not respond to our written requests, the petition continues without his/her participation.

**24. My former spouse was abusive and will become even more abusive if he/she finds out about this process. Must my former spouse be contacted?**

Understandably, this is a concern for you and your well being, your family, society and the Church. Even our civil society has a difficulty addressing this serious issue. Yet, your former spouse has an essential right to know that this process is occurring. Failure to contact the former spouse can result in this entire process being declared invalid. Your former spouse will not be given your address or your phone number(s). Another viewpoint to consider is how your former spouse might respond if this process is done without notifying him/her and how your former spouse might respond when he/she later finds out about it. Although you might think your former spouse will never find out, it has been the Tribunal’s experience that the former spouse will eventually find out through an inadvertent comment made by a child from the marriage, a family member, friend, etc. Your former spouse could then appeal the final decision once he/she finds out about it on the grounds that he/she was not contacted. Your former spouse also could become even more upset since he/she might feel something was done “behind his/her back.” Finally, if the former spouse is a Catholic, the Tribunal is required to notify his/her church of baptism or profession of faith if a declaration of nullity is ever rendered. Your former spouse could find out from this source that the process has been completed.

**25. Is the Church saying that I must stay married to an abusive spouse and risk my safety?**

**NO.** The Church recognizes that at times it may be necessary for a husband and wife to separate. For reasons of child custody and/or financial independence, it may be necessary to obtain a civil divorce. However, a civil divorce does not dissolve the marital bond to allow one to morally marry another person (I Cor.7:10-11; cf. *Catechism of the Catholic Church*, # 1649).

**26. How confidential is this process? Will my address and phone number(s) be given to my former spouse?**

All information, including civil and/or church documents, gathered during this process is the exclusive and permanent property of the Tribunal of the Archdiocese of Galveston-Houston. All information remains confidential with officials of the Tribunal and is not made available to others, except as required by Canon Law of the Catholic Church, notably for review by the Petitioner (Yourself) and Respondent (Your Former Spouse). The information is not made available to witnesses, intended/current spouses or others. If you review the material, the review must occur in a tribunal office with no photocopies of any material taken from a tribunal office by your former spouse or you. Your former spouse will not be given your address or your phone number(s).

**27. Why do I need witnesses? Do you not trust my word? Who can serve as witnesses? What are my responsibilities to my witnesses?**

It is not an issue of not trusting you. The necessity of witnesses is a biblical tradition (Dt.19:15; Mt.18:16; Jn.8:17; 2 Cor.13:1). Thus, Canon Law requires the use of witnesses. Witnesses also ensure that the truth of the relationship is revealed. Even when you think your relationship was so “private” and perhaps you did not share your marital problems with others, many times witnesses indeed have valuable insights and observations about the failed marital relationship.

Witnesses are to be knowledgeable of your family background and childhood AND knowledgeable about the relationship between you and your former spouse **prior to AND throughout this marriage. Immediate family members** (your parents, brothers, sisters) are usually the best witnesses. Other suggestions include: relatives, good friends, members of the wedding party, co-workers, neighbors, possibly relatives of your former spouse, etc. Do not include the Respondent (your former spouse’), children from this marriage or your intended/current spouse. **Before listing any witnesses, you must first secure their permission.** Without their permission, witnesses are surprised, even angered, when they receive a questionnaire from the Tribunal.

The Tribunal requires three or four witnesses; however, more are acceptable. Inform your witnesses that their responses may be reviewed in a tribunal office by you and your former spouse. However, no photocopies of their responses will be allowed to be taken by you and/or your former spouse from a tribunal office.

You may not “coach” any witness with their responses. Inform your witnesses to: respond to the questionnaire with the complete truth; abide by the time period allotted to complete and return their responses to the Tribunal; and keep a photocopy of their responses in the event their original responses do not reach this Tribunal.

**28. I received counseling for my previous marriage. Will a counselor’s report be helpful?**

It may or may not. The Tribunal will decide whether or not to contact your counselor. We encourage you to submit a release form for any counseling received prior to, during and/or after this failed marriage. If you received joint counseling with your former spouse, we will attempt to secure a signed counselor’s release from your former spouse also. If we cannot secure your former spouse’s release, then we will proceed without it. If you or your former spouse was ever hospitalized or treated for nervousness, emotional or psychological problems, suicide attempts, etc., it is always good to submit, if possible, copies of actual medical records and of prescription drug receipts, outline of the dates of hospitalizations, medical visits, etc. as proof.

**29. How will I be kept informed about the steps of the process? How do I contact the Tribunal?**

Communication is to occur through written correspondence by mail. Once the petition is received into this office, you will receive a letter acknowledging its receipt. A canon lawyer will review the petition to see if the petition can be accepted for a full review. Acceptance of the petition does not mean your petition will necessarily receive an affirmative for nullity. It only means that your former spouse, witnesses and possibly a counselor will then be contacted. Your desire to have the marriage declared invalid must be substantiated by the nullity process necessitated by Canon Law. If any further information is needed from you, you will be contacted by mail. Once all the information has been gathered, various officials of the tribunal will review the information. Eventually, a canon lawyer or a panel of three canon lawyers will write a decision, explaining the reasons why the marriage should be declared invalid or the reasons to uphold the validity of the marriage.

Since we are processing numerous petitions at any given time and for confidentiality purposes, no telephone calls for status reports or questions will be accepted by this office. However, written requests are welcomed. The Tribunal will keep you informed of the petition’s progress. An “excessive” number of written requests to this office will slow down the processing of every petition, including yours, since it takes time to answer each request.

Although your intended/current spouse or other family members will undoubtedly be very interested in this nullity process and its final decision, these persons are not direct participants in the process. Only the Petitioner (Yourself) and the Respondent (Your Former Spouse) have the right to request any information. Therefore, no information will be given to anyone other than you and your former spouse.

### **30. If declaration of nullity is rendered, is this decision final? Does it affect both spouses?**

If an affirmative decision is rendered in a Formal petition by this Tribunal, both parties are notified. If either spouse to the former marriage disagrees with an affirmative or a negative decision, there is a process of appeal within a certain time period. A formal appeal of this Tribunal's decision, whether affirmative or negative, may be directed to either to the Appellate Court of our Metropolitan See or directly to the Roman Rota.

### **31. Is it possible that my petition will be denied?**

At times, because an initial petition lacks any apparent grounds for nullity, a petition will not be accepted for a full review. Even if a petition is accepted for a full review, it is possible that the final decision will be negative. The final decision, whether affirmative or negative, will be based solely on all the factual evidence gathered. The presumption of validity at the time of marriage ceremony must be overturned by all the evidence gathered. If the evidence gathered does not overturn the presumption of validity, the presumption remains intact. There are indeed valid marriages that unfortunately end in divorce.

### **32. If a declaration of nullity is rendered, am I and/or my former spouse free to marry in the Catholic Church?**

**YES.** You are free to marry, with the understanding that all guidelines of the Diocesan Marriage Preparation Policy are to be observed. However in some instances, additional *pastoral* requirements mandated by the Tribunal (such as possible counseling) might be necessary to be fulfilled prior to any new marriage in the Catholic Church. The breakup of a marital relationship is always a difficult and trying experience, often leaving many unresolved issues. Frequently, these issues can interfere with efforts to establish a new and more successful marital relationship. To help you and any prospective spouse build a solid marital relationship and avoid possible serious difficulties, these *pastoral* concerns are to be addressed and any *pastoral* requirements fulfilled (including possible counseling) prior to a new marriage in the Church. The cost of counseling, if required, will be your responsibility. The person who will prepare you for marriage in the Church will be asked to contact the Tribunal if there are any additional *pastoral* requirements, and that person will address such concerns with you and your prospective spouse. You will also be challenged if you are not meeting your moral and civil court obligations to your former spouse and/or to any children from previous marriage(s).

### **33. When can I set a wedding date in the Church?**

Neither a priest, deacon, any other parish representative, nor you can set any date, even tentative, for any marriage ceremony in the Catholic Church until if and when a final, affirmative decision for nullity has been rendered. If a wedding date has been set at a parish OR "set in your mind," the Tribunal will NOT speed up your petition to accommodate what should not have occurred.

### **34. How long does all this take? Why does it take so long?**

To give you a prediction on how long it will take to conclude your petition is impossible. Canon Law suggests a formal nullity petition be processed within 12 months. But there is never a guarantee. Sometimes it takes less time. Sometimes it takes more time. It depends upon the following: amount of information to be gathered for each specific petition; the availability and full cooperation (or lack) of witnesses; the number of petitions the Tribunal is processing at any given time; and the number of canon lawyers available at any given time to make a final decision. Each petition is unique, taking a different amount of time to process each petition. We in the Metropolitan Tribunal understand that you are eager for a final decision in this process. Even if all the information has been gathered, your petition will not necessarily be given an immediate decision. As required by Canon Law and in all fairness, petitions submitted prior to your petition with all the information gathered will be processed first. The Tribunal attempts to process each petition in a timely manner.

### **35. But my situation is unique and demands an urgent decision. What can be done?**

This office recognizes that your situation is unique. But the reality is that everyone's petition is unique, and everyone wishes to have one's petition processed as quickly as possible. Please be patient. Make sure that you have submitted a petition that has been completed fully, observing all the directions, etc. "Excessive" number of written requests to this office will only slow down the processing of every petition, including yours since it takes time to answer each request. Also, refer to the previous answer.



**36. Is this nullity process another way for the Church to make money? Why is there a fee?**

NO. In fact, the Diocese of Victoria “loses” money in this process since it is subsidized heavily. The Catholic Church is not interested in making money but rather to assist people in their spiritual relationship with the Church. That is why the Diocese of Victoria so generously subsidizes the process. A final decision, whether affirmative or negative, does not cost anything. However, a fee is assessed to process a petition. This fee helps to offset the expenses of running the Tribunal, such as office staff salaries, stationery, postage, etc. There are different processing fees for the different petitions. The entire processing fee is to be paid prior to the conclusion of each case. If a counselor’s report or any additional fees are necessary, you will be responsible for the additional fees beyond the regular processing fee. The processing fee represents only a part of the true costs involved. We believe each petitioner should bear some of the costs of this process. The Diocese of Victoria subsidizes the difference through the Diocesan Services Appeal (DSA). Thus, those who contribute to DSA are contributing to the costs associated with processing your petition.

It is interesting that some complain about assisting with the cost of the processing of the petition. But remember there were costs associated with a civil divorce, and there are costs associated with any new marriage ceremony and reception. One can only marry in the Church if a declaration of nullity is rendered.

**37. What if I truly cannot afford the processing fee?**

If you truly are unable to pay the entire processing fee, the fee may be waived in part or in full, depending on your circumstances. You must submit a letter to the Tribunal indicating your inability to pay and the reason(s) why. No one is refused the services of the Church based upon an inability to pay. Be assured that your petition will receive the same consideration as any other.

**38. Is it true that it is easier or quicker to get a declaration of nullity if one gives more money or if one knows someone in authority in the Church?**

NO. The final decision, whether affirmative or negative, will be based solely on all the factual information gathered. The Tribunal will not accept any amount beyond the regular processing fee and any possible additional fees of a particular petition. As required by Canon Law and in all fairness, petitions submitted prior to your petition with all the information gathered will be processed first. If a canon lawyer knows you and/or your former spouse, that canon lawyer is required to disqualify himself/herself from the nullity process. Every staff official is required by Canon Law to follow a code of ethics in order to work in a tribunal office.

**39. Is it easier to get a declaration of nullity today?**

**Yes and no.** Only in the sense that over the past few years, the Church has come to a fuller understanding of the workings of the human mind and heart. This insight has been gained through the development of modern psychology, which shows some people have not matured sufficiently by the time of their marriage ceremony to appreciate what is entailed in so serious a commitment as marriage. This does not mean, of course, that the couple should be able to foresee all the struggles in a particular marriage. It does mean that where there is a gross lack of appreciation or evaluation of the proposed marriage so that there is an enormous gap between the spouse’s consent and the reality of the lifelong commitment to another human being, there could be no valid and binding marriage. Although this gap can occur quite often in the very young, it is also possible for things to go so wrong in a person’s background that an adequate appreciation of what a marriage entails is impossible for a person of more mature years. Also, more and more people are entering into a “marriage” with an understanding of marriage which is contrary to the Church’s understanding of marriage, (such as a desire not to have children, a belief that divorce and remarriage is acceptable, etc.). Finally, more people are divorcing and petitioning for a declaration of nullity. The Catholic Church is attempting to respond to the many requests while remaining faithful to the teachings of Christ.

**40. Is it true that my petition will be easier if I and/or my former spouse were not baptized prior to or during the marriage?**

NO. Even though your marriage was not considered a sacrament, your marriage is still considered valid and binding until the death of one of the spouses. (A sacramental marriage exists between two baptized Christians, whether Catholic or not.) Therefore, you must petition for the failed marriage.

**41. Is it true that every petition must go to Rome?**

**NO.** The overwhelming majority of petitions are processed on the diocesan level. Only in the event of an appeal or with a specific type of petition must it go to Rome.

**42. Is it true that I am excommunicated from the Catholic Church if I, as a Catholic, am divorced and/or remarried “outside” the Church?**

**NO.** That is a common misconception. You are not excommunicated if you are a divorced Catholic and/or remarried “outside” the Church.

**43. Why does a Catholic have to be married by a Catholic priest or deacon? I thought the Church respected the integrity of all marriages. What are the consequences if a Catholic is married “outside” the Catholic Church?**

The Catholic Church believes that a marriage involving at least one Catholic person must be witnessed by a Catholic priest or deacon. The importance of marriage and its relationship to the Catholic faith community necessitates the marriage ceremony to occur within the public worship of the Church. There are only a few, special pastoral exceptions when a Catholic can marry in a non-Catholic environment and/or by a non-Catholic minister. But the Catholic is still required to get premarital preparation by the Catholic Church and to secure a dispensation or permission from the Catholic bishop allowing for such a marriage ceremony. The Catholic Church can only mandate Catholics to marry within a certain church form (cf. *Catechism of the Catholic Church*, #1630-1632). Thus, if a Catholic marries “outside” the Church without a dispensation or permission from the Catholic bishop, that marriage ceremony is not considered valid, even though it is recognized in civil law. Since the Catholic Church has no jurisdiction over how two non-Catholics marry, the Catholic Church recognizes the validity of that marriage of any kind—religious, civil court (justice of the peace, etc.), common law, etc.

If a Catholic is married “outside” the Catholic Church with no dispensation or permission from the Bishop and is sharing fully in all marital relations, the Catholic is not able to receive the Sacraments of Penance, Eucharist and the Anointing of the Sick (cf. I Cor. 11:27-29), except in the danger of death since he/she has chosen to live in a relationship not recognized by the Church. A Catholic would be free to receive the Sacraments if the couple chose to have a convalidation, i.e., recite their marital vows before a Catholic priest or deacon and thus marry in the Church. If a person married outside the Catholic Church (with at least one party being a Catholic) and divorced without a convalidation ever having taken place in the Church, the person must submit an Absence of Canonical Form petition. Your Case Sponsor will assist you.

If a person divorced after having a marriage convalidation in the Church, the person must submit a Formal petition. In the Formal petition, it is important to discuss the reasons for the non-Catholic marriage ceremony and the life together prior to the Catholic marriage ceremony. But it is crucial to discuss the relationship at the time of the Catholic marriage ceremony and the reasons why a convalidation occurred in the Church because that is when the Catholic marriage began.

**44. May I receive Holy Communion if I am Catholic, divorced and not remarried? May I receive Holy Communion if I am Catholic, divorced and remarried? Why does the Catholic Church punish me by not allowing me to receive Holy Communion?**

If you, as a Catholic, are divorced, not remarried and in a state of grace, you may continue to receive Holy Communion. Divorce itself is not a barrier to the reception of the Sacraments of Penance, Eucharist and the Anointing of the Sick. If you are divorced and remarried “outside” the Catholic Church with no dispensation or permission from the Bishop (cf. to the answer of #43) and are sharing fully in all marital relations, you are not able to receive the Sacraments of Penance, Eucharist and the Anointing of the Sick (cf. I Cor. 11:27-29), except in the danger of death. If you have remarried “outside” the Catholic Church without a dispensation or permission from the Bishop, you have taken an action that is contrary to the teachings of Christ on marriage, divorce and remarriage (cf. *Catechism of the Catholic Church*, #1650). The Catholic Church is not punishing you. Rather the Church is being faithful to the teachings of the Christ. Although you are not able to receive the sacraments, you still have an obligation to attend Mass faithfully every Sunday. Understandably, you may

indeed receive the Sacraments of Penance, Eucharist and the Anointing of the Sick if you are remarried in the Church, provided your former spouse(s) preceded you in death or you have received a declaration of nullity for your previous marriage(s).

**45. I have heard the term used “leaving the Church by a formal act.” What does that mean?**

If you are a Catholic, you have left the Catholic Church by a “formal act” if you have formally declared that you no longer consider yourself a Catholic. That could occur by accepting baptism in another denomination, by formally making a “profession of faith” in another denomination or religion, by formally renouncing Catholicism, etc. Merely attending another denomination or not practicing any public worship is not necessarily “leaving the Church by a formal act.” Please consult your Case Sponsor for assistance with this issue if necessary.

**46. I am a divorced, non-remarried Catholic. Do I have to petition for a declaration of nullity?**

Not necessarily. If you have no intention of ever remarrying, you do not have to petition. The only reason for the necessity of petitioning is to allow for the possibility of another marriage in the Catholic Church. But please remember that if you wish to marry in the Church, your intended spouse must be free to marry in the Catholic Church. That person must: have never been previously married; be widowed; and/or have received an affirmative decision for nullity of any previous marriage(s), whether that person is a Catholic or not.

**47. I desire to become Catholic. But I am divorced. Do I have to petition for a declaration of nullity? What if I have never been divorced, but my present spouse has been divorced? Can I become Catholic?**

If you are not remarried and have no intention of ever remarrying, you do not have to petition. You may become a Catholic and share fully in the sacramental life of the Church. The only reason for the necessity of petitioning is to allow for the possibility of a marriage in the Catholic Church. But please remember that if you wish to marry in the Church, your intended spouse must be free to marry in the Catholic Church. That person must: have never been previously married; be widowed; and/or have received an affirmative decision for nullity of any previous marriage(s), whether that person is a Catholic or not.

If you are divorced and remarried and desire to become a Catholic, you will have to petition for a possible declaration of nullity, provided your former spouse is still living and the Catholic Church has not declared your former marriage null. If your current spouse has been married and divorced, each of his/her failed marriages will have to be reviewed also, provided his/her former spouse is still living and the Catholic Church has not declared that former marriage null. If you desire to become Catholic and you have had no previous divorces but you are currently married to a spouse who was previously divorced, each of his/her failed marriages will have to be reviewed also, provided his/her former spouse is still living and the Catholic Church has not declared that former marriage null. The nullity process must be complete with a final, affirmative decision for nullity for each possible petition before you can become a Catholic. Please remember Jesus’ teachings on marriage, divorce and remarriage apply to all people, not just Catholics.

**48. I cannot wait for this process. I will marry first “outside” the Catholic Church. Can I have my marriage “outside” the Church later recognized by the Church when it grants my annulment?**

If you choose to marry “outside” the Catholic Church, you have chosen to live in a relationship that is not recognized by the Catholic Church as a valid marriage, even though civil law recognizes it. By choosing to do so and provided you are sharing fully in all marital relations, you will no longer be able to receive the Sacraments of Penance, Eucharist and the Anointing of the Sick (cf. I Cor. 11:27-29), except in the danger of death. If later a declaration of nullity is rendered, you would then be able to marry in the Church, i.e., you will have to recite your marital vows in front of a Catholic priest or deacon (convalidation). But please remember that there is never a guarantee of an affirmative decision for nullity.

**49. If I cannot get a declaration of nullity and if I remarry “outside” the Catholic Church, then I guess I cannot be Catholic anymore. Is that true?**

**NO.** You are always a Catholic unless you make a decision to renounce the Catholic faith by formally joining another denomination or religion. You are always welcomed and encouraged to participate in the Mass. However, one cannot receive the sacraments (cf. to the answer of #44). Pope John Paul II wrote the following in his *Apostolic Exhortation on the Christian Family in the Life of the World*: “I earnestly call upon pastors and the whole community of the faithful to help the divorced and with solicitous care to make sure that they do not consider themselves as separated from the Church, for as baptized persons, they can, and indeed must, share in her life” [n.84] (cf. *Catechism of the Catholic Church*, #1651).

**50. The Church’s teaching of marriage, divorce and remarriage seems impossible to live out in today’s world. Jesus could not expect us to take Him literally, could He?**

It is a misconception that only today’s world struggles with divorce and remarriage. Divorce was common in Jesus’ time since He taught against such practices. Even those around Jesus found His teaching very difficult to accept (Mt. 19:10). Jesus said, “It is not everyone who can accept what I have said, but only those to whom it is granted” (Mt. 19:11). The Catholic Church remains faithful to the teachings of Christ and has no authority to allow remarriage after divorce (provided the former spouse is still living). This teaching is indeed a difficult one to live out. But there are many other teachings of Christ that are difficult to live out, such as: to “love your enemies, and pray for those who persecute you” (Mt.5:44); to forgive one another “seven times seventy times” (Mt. 18:22); etc. It is only through the graces of God that we as human beings are able to be open to live out the teachings of Christ (cf. *Catechism of the Catholic Church*, #1615).

Hopefully, this informational handout has been of value to you. As you proceed through this process, please pray and allow the Holy Spirit to guide you.

If you still do not fully understand the Church’s teaching on marriage, divorce and remarriage or the nullity process, the following pamphlet and two books are good resources:

- (1) *Annulment: The Wedding That Was. How the Church Can Declare a Marriage Null*, by Michael Smith Foster, Paulist Press, New York; 1999.
- (2) *Annulments and the Catholic Church: Straight Answers to Tough Questions*, by Edward N. Peters, J.D., J.C.D., Ascension Press; 2004.

“Frequently Asked Questions About Annulments” written by the Metropolitan Tribunal of the Archdiocese of Galveston-Houston, Third Printing 2006.