

**DECLARATIONS OF
NULLITY
and
DISSOLUTIONS
MANUAL**



**INSTRUCTIONS AND NOTES
FOR THE PARISH**

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of the

Diocese of Prince George

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Table of Contents

Introduction	I
The Catholic Church’s Teaching On Marriage	I
Two Types Of Declaration Of Nullity:.....	II
Three Types Of Dissolution:	III
PART A: THE TWO TYPES OF DECLARATION OF NULLITY	1
Type 1: Local Case Process: Declaration Of Nullity Due To Lack Of Form	2
Type 2: Formal Case Process: Declaration Of Nullity Or.....	4
‘Annulment’ (Via Tribunal).....	4
Formal Case Process	6
<i>Formal Case Documentation To The Vancouver Regional Tribunal</i>	<i>6</i>
STEP ONE: COMPLETE THE PRELIMINARY INTERVIEW	6
STEP TWO: REVIEW THE TRIBUNAL FORMS WITH THE PETITIONER.....	8
STEP THREE: FOLLOW-UP INTERVIEW WITH THE PETITIONER	10
STEP FOUR: RECORDED INTERVIEWS & TRIBUNAL REVIEW.....	12
Formal Case Process:	13
<i>Procedures Conducted By The Vancouver Regional Tribunal.....</i>	<i>13</i>
Appendix A: Frequently Asked Questions About The Declaration Of Nullity (Annulment) Process	15
Appendix B: Grounds For Nullity	21
PART B: THE THREE TYPES OF DISSOLUTION OF MARRIAGE.....	38
Type 1: Pauline Privilege	40
Type 2: Privilege Of The Faith Or ‘Petrine Privilege’	45
Type 3: Non-Consummation	49
ANNULMENT PROCESS PARISH RESOURCE.....	
FREQUENTLY ASKED QUESTIONS ABOUT THE ‘ANNULMENT’ PROCESS	- 2 -
Grounds For Nullity	- 7 -
Insufficient Use Of Reason (Canon 1095, 1°)	- 7 -
Grave Lack Of Discretion Of Judgment (Canon 1095, 2°)	- 7 -
Incapacity To Assume The Essential Obligations Of Marriage (Canon 1095, 3 °).....	- 8 -
Ignorance Of The Societal Nature Of Marriage (Canon 1096).....	- 9 -
Ignorance Of The Sexual Nature Of Marriage (Canon 1096, Con’t).....	- 9 -
Error Of Person (Canon 1097, §1)	- 10 -

Error About A Quality Of A Person (Canon 1097, §2).....- 10 -
Fraud Or Deceit (Canon 1098).....- 11 -
Error Concerning The Unity Of Marriage (Canon 1099).....- 12 -
Error Concerning The Indissolubility Of Marriage (Canon 1099, Con't).....- 12 -
Error Concerning The Sacramental Dignity Of Marriage (Canon 1099, Con't).....- 13 -
Total Simulation & Partial Simulation Of Marriage (Canon 1101)- 14 -
Future Condition (Canon 1102, §1)- 17 -
Past Condition (Canon 1102, §2).....- 18 -
Present Condition (Canon 1102, §2).....- 19 -
Force Or Fear (Canon 1103)- 19 -
Reverential Fear (Canon 1103, Con't)- 20 -
Invalid Convalidation.....- 20 -
Index..... A

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DECLARATIONS OF NULLITY AND DISSOLUTIONS MANUAL

INTRODUCTION

The Catholic Church's Teaching on Marriage

The Catholic Church teaches that marriage is created by God and governed by his laws. Since the institution of marriage is of divine origin, the Church's teachings concerning the dignity of marriage apply to all marriages, not merely those of Catholics. All people who are capable of giving consent can marry; in turn, consent makes marriage (c. 1057).

The Church teaches that marriage is also a covenant between a man and a woman which establishes an indissoluble and exclusive partnership (c. 1056). It is a vocation which fosters the good of the spouses and naturally leads to the procreation and education of children (c. 1055).

The Church holds that a couple's spiritual bond is sealed by God and does not end, even if the emotional and physical bond has ended in civil divorce. Moreover, the Catholic Church shares the belief of other faith communities and of society that a marriage is not just the private affair of a couple, but rather it is a public reality, affecting both the civil and religious sphere of society, and serves as their foundation.

For a Catholic, a valid marriage results from four elements:

- both spouses are free to marry (i.e., no canonical impediments exist);
- both freely exchange their consent (i.e., no coercion or fear involved);
- in consenting to marry, they have the intention to marry for life, to be faithful to one another, and to be open to the procreation and upbringing of children; and,
- rooted in the requirements of canon law, their consent is exchanged in the presence of two witnesses and before a properly authorized cleric (bishop, priest or deacon) or authorized delegate; this requirement is referred to as "canonical form".

Only members of the Catholic Church are bound to follow the above-described canonical form. Consequently, the Catholic Church recognizes, *as valid*, marriages that are celebrated by non-Catholic individuals who are free to marry (i.e., not bound by a previous union).

For example, the marriage of two baptized non-Catholics, or the marriage of a baptized non-Catholic and a non-baptized person, is presumed to be valid, whether it is celebrated before a civil official or a non-Catholic minister. The marriage of the two baptized non-Catholics is also considered a sacrament, in keeping with the theological perspective of the Catholic Church.

DECLARATIONS OF NULLITY AND DISSOLUTIONS MANUAL

The Catholic Church also respects the natural bond of marriage that is entered into by non-Christians (e.g., two Buddhists who marry). The Church considers the marriage bond between non-Christians to be as equally binding as those of Catholics.

The respect and recognition given to marriage in the above scenarios is rooted in Jesus' teachings in the Gospels, the writings of Saint Paul, and centuries of Christian tradition.

Therefore, although not every marriage is a sacrament, every marriage between a man and a woman is presumed to be valid, unless determined otherwise (c.1060). Like marriages in the Catholic Church, whenever there has been a public exchange of consent, the validity of these marriages is presumed until the contrary is proven.

Hence, a Declaration of Nullity or a Dissolution of the previous bond by Pauline Privilege or Petrine Privilege (more accurately referred to as Privilege of the Faith) are necessary when a Catholic Party wishes to marry either a divorced Christian (a Catholic or a non-Catholic) **OR** a divorced non-Christian in the Catholic Church.

There are *five avenues to establish freedom to marry in the Catholic Church*:

TWO TYPES OF DECLARATION OF NULLITY:

(1) Declaration of Nullity Due to Lack of Form (granted by a diocesan Bishop; therefore, referred to in this manual as, "Local Case Process"): an attempted marriage is declared null as the Catholic Party(ies) did not observe the requirements of: (a) canonical form or (b) an authorized dispensation from canonical form by the diocesan Bishop or local ordinary.

(2) Declaration of Nullity or "Annulment" (via a Tribunal process; this is referred to as a "Formal Case" process): an attempted marriage is declared null due to an invalid consent or a previously-existing impediment;

** The above options declare that a valid marriage **never came into being** at the time that consent was given by the respective parties; in other words, the attempted marriage is judged invalid.*

DECLARATIONS OF NULLITY AND DISSOLUTIONS MANUAL

THREE TYPES OF DISSOLUTION:

- (1) **Dissolution of the Prior Bond via Pauline Privilege** (granted by the Law itself; and with the authoritative overview of the diocesan Bishop);
- (2) **Dissolution of the Prior Bond via Privilege of the Faith, also referred to as Petrine Privilege** (granted by the Roman Pontiff);
- (3) **Dissolution of the Prior Bond via Non-Consummation** (granted by the Roman Pontiff).

** A dissolution is not a declaration of nullity (or invalidity). A dissolution declares that a marital bond is presumed to have existed, and that it, along with any of the obligations connected to it, have been dissolved in support of Christian marriage and the favour of the Catholic Christian faith.*

This *Declarations of Nullity & Dissolutions Manual* has been prepared by the Chancery Office of the Diocese of Prince George. The manual is meant to answer questions that may arise in the documentation process and to provide useful instructions and notes.

The manual will be updated as questions, concerns, or suggestions arise. Please ensure that you are checking the Priests' Portal for the most recent version of the manual by the date posted, as edits will be indicated with "Revised".

Also, the Chancery Staff will make every endeavour to be of service for answering questions or assisting in the processing of the nullity or dissolutions documentation. Please contact us if you are in need of assistance.

Sincerely,

Rev. John Garden
Chancellor

Mrs. Martha Primus
Vice-Chancellor

**PART A:
THE TWO TYPES OF
DECLARATION OF NULLITY**

**TYPE 1
LOCAL CASE PROCESS:
DECLARATION OF NULLITY
DUE TO LACK OF FORM**

A *Declaration of Nullity Due to Lack of Form* is granted at the local diocesan level by the diocesan Bishop; a tribunal is not normally involved. This manual is referring to this type of declaration of nullity as one of “Local Case Process”.

In the Local Case Process, a petition is submitted by a Catholic Petitioner to the diocesan Bishop (via the parish and Chancery Office) requesting that his/her attempted marriage be declared null because:

- (a) **canonical form was *not* observed properly** (i.e., the consent of the groom and the bride was *not* exchanged, as required by canon law, in the presence of a properly authorized cleric or delegate, and two witnesses);

- (b) **the required Dispensation from Canonical Form** (Form 3 in our diocese) **was not granted by the diocesan Bishop (or local ordinary) prior to the alternative celebration taking place.**

Forms 5 and 5 A (*or* 5 B) are used in the Local Case Process. These forms can be located in the Priests’ Portal at the following link: [DECLARATION OF NULLITY FORMS](#)

**TYPE 2
FORMAL CASE PROCESS:
DECLARATION OF NULLITY
OR
'ANNULMENT'
(VIA TRIBUNAL)**

A 'Declaration of Nullity' (often referred to as an 'Annulment') is a decision rendered by a marriage Tribunal in the Catholic Church that acknowledges that a valid *bond* was never actually established between the couple in question (i.e., the Petitioner and the Respondent) at the time of marital consent (i.e., 'vows') as one (or more) of the necessary elements for a valid marriage was (were) absent or somehow lacking.

After receiving a formal petition (referred to as the *libellus*) and accompanying documentation from the Petitioner (via his/her local Chancery Office), the marriage Tribunal makes a decision as to whether or not there is sufficient information to pursue a detailed study of the marriage in question. The tribunal process examines the intentions (will) and understanding (intellect) of both parties at the time of their wedding to see if the necessary elements for the bond of marriage were present (e.g., permanence, fidelity, the ability for true companionship and love of the spouses, necessary maturity, and an openness to the procreation and education of children). The couple's family of origin, courtship and marital histories are also reviewed to gain an understanding of the intentions and capacities of the parties at the time of marital consent.

Even though both individuals may have entered the marriage with the best of intentions, a Declaration of Nullity might be issued by the marriage Tribunal if a ground (or grounds) for nullity are established. Marriages rarely fail because of ill will or malice present from the beginning, but rather, because one or both of the spouses were unable to create the bond necessary for a valid marital union due to physical, psychological, and/or circumstantial causes.

A Declaration of Nullity, therefore, does not break the marriage bond; rather it declares that the marriage bond was never validly established in the first place according to Church teaching and Church law. Similarly, if the marriage Tribunal upholds the validity of the marriage being investigated, both spouses remain bound in their previous union.

There are things that a Declaration of Nullity does not do: (1) it does not deny that a relationship existed which was recognized as a marriage in civil law; (2) it does not necessarily imply that the relationship was entered into with ill will or malice on the part of either party; and (3) it does not say that children of such a union are illegitimate.

Even if the marriage Tribunal declares that a bond did not occur between the couple to make their marriage valid in the Church, the couple was obviously wed according to civil law, lived together, and possibly had children. They have a "history" from being together. No one can deny, therefore, that a relationship existed in some fashion, at least for a time, with its own joys and sorrows, its own hopes and disappointments.

Also, even when a Declaration of Nullity is granted, there is no automatic permission for either party to enter another marriage in the Catholic Church. Since the Church is entrusted with upholding and protecting the dignity of marriage, the marriage Tribunal must be reasonably certain that each party is currently capable of entering a valid union or has the proper attitudes toward the essential obligations of marriage prior to any future marriage in the Church. In some cases, the marriage Tribunal will issue a prohibition or a warning of some kind which is to be addressed before one (or both) of the parties enter into a future marriage in the Catholic Church.

Formal Case Process:

Procedures of the Diocese of Prince George before forwarding FORMAL CASE DOCUMENTATION TO THE VANCOUVER REGIONAL TRIBUNAL

STEP ONE: COMPLETE THE PRELIMINARY INTERVIEW

In most circumstances, the Petitioner for an annulment process will make her/his first contact with her/his Parish Priest; hence, the Parish Priest acts as Interviewer and is asked to complete the Preliminary Interview with the Petitioner (see instructions below).

When the Parish Priest (or, if necessary, the Chancery Staff member) completes the Preliminary Interview, he/she should be attentive to any significant sharings that might attest to possible grounds for nullity. The Interviewer should also facilitate a dialogue that enables the Petitioner to share details that will present as complete a picture as possible of the present and past relationship, as well as her/his state of mind at the time of consent.

Instructions for the Completion of the “Preliminary Interview Form”

- 1) Arrange an appointment with the Petitioner (i.e., the individual who has contacted you to discern his/her desire to petition for a Declaration of Nullity).
- 2) Complete the “Preliminary Interview Form” with the Petitioner (i.e, found at this link: [PRELIMINARY INTERVIEW FORM](#)). You can either: (a) print the “Preliminary Interview Form”, complete it, retain a photocopy for your files, and mail the document (and other documentation) to the Chancery Office; OR (b) save the fillable document in a file on your computer, complete it, print it, and mail the document (and other documentation) to the Chancery Office.

a) **PAGE ONE:**

- i) On the top left-hand-side of the form, fill in the date that you are conducting the Preliminary Interview and your name next to "Interviewer".
- ii) Leave the "Date Received at Chancery Office" on the top right-hand side of the form blank for Chancery Office use only.
- iii) On the top right-hand side of the form, fill in the section, "Location of Interview" with the name of the town/city where the interview is being conducted.
- iv) Fill in the Petitioner's information as listed on the form with the assistance of the Petitioner or ask the Petitioner to do so. Please ensure that the information asked for is provided (e.g., date and place of marriage, etc, as listed on the form).
- v) Ask the Petitioner to provide the Respondent's information (i.e., the information of the civilly-divorced spouse); if the Petitioner has difficulty recalling information, ask him/her to try to obtain information from the Respondent himself/herself as the Respondent has a legal right to be both contacted and involved in the judiciary process of the Tribunal. If the Petitioner is unable to obtain such information from the Respondent (e.g., due to fear, lack of cooperation on the Respondent's part, etc), please inform the Chancery Office.
- vi) If the Petitioner desires to marry another person, record the name of the "Intended Spouse" and the other noted information. If the Petitioner has no intention of marrying another person at this time, place a line through that section, and write "N/A" (i.e., for 'Not Applicable').

b) **PAGE TWO:**

- i) If marriage (or marriages) were contracted by the Petitioner, the Respondent, or the Intended Spouse of the Petitioner (i.e., either civilly or in another religious ceremony of some kind) BEFORE the marriage in question or AFTER the marriage in question, ask the Petitioner to provide the information as it relates to each other marriage. If there were no other marriages by the Petitioner, Respondent, or Intended Spouse before OR after the marriage in question, cross a line through

the section, Previous/Subsequent Marriages, and write “N/A” (i.e., for ‘Not Applicable’).

- ii) In the “History” section of the form, record, in brief, the main reasons why the Petitioner is seeking a Declaration of Nullity.
 - iii) “Comments”: During the preliminary interview or afterwards, you may note any possible grounds for nullity in the “Comments” section (i.e., grounds that *you* deem to be in keeping with the reasons offered by the Petitioner for his/her invalid marriage). After the interview is complete, and the Petitioner has left the appointment, you may also wish to record any pertinent observations about the information shared by the Petitioner. For example: Did you find the Petitioner’s information and sharing credible?
- 3) At the bottom of page two, record the name of your parish, parish address, and your name as Pastor (Interviewer); provide your signature.
 - 4) Before the Petitioner leaves your office, refer him/her to the *Ministries and Outreach* section on the homepage of the diocesan website. There, the Petitioner will find a document titled, “**Annulment Process - Parish Resource**”. Invite the Petitioner to review this document at home, with particular attention being given to the Grounds for Nullity section and the subsections, “Exploratory Questions Related to this Ground”. The exploratory questions are meant to help the Petitioner identify possible grounds for nullity. Inform the Petitioner that the Tribunal will complete the final work of determining if any grounds for nullity exist, but that the Petitioner has a right to suggest possible grounds when submitting his/her petition. You may wish to have printed copies of the “**Annulment Process - Parish Resource**” on hand to give to a Petitioner who does not use the internet.

STEP TWO: REVIEW THE TRIBUNAL FORMS WITH THE PETITIONER

On the opening page of the Archdiocese of Vancouver – Vancouver Regional Tribunal “Preliminary Forms” package, the Interviewer provides his signature above the line that reads, “Interviewer”, and he places the date of the interview above the line that reads, “Date”. The “Forms Returned” line is not dated until all needed documentation from the Petitioner has been returned to the Interviewer at a follow-up interview.

The Interviewer gives the Petitioner pages 1-4 of the “Preliminary Forms” package for completion. Before completion, the Interviewer reviews pages 1-4 with the Petitioner using the following information:

Page 1: The Interviewer notes that the information on p. 1 is, for the most part, a duplicate of the information recorded on the Preliminary Interview Form (but that some portions are organized differently, or in more detail; e.g. Religion at the time of marriage; Present Parish, etc). Despite some overlap in information gathering, the Vancouver Tribunal requires that both the *Preliminary Interview* pages and page 1 of the *Preliminary Forms* be completed.

Page 2: The Interviewer briefly reviews with the Petitioner the required contents of the *Summary of Courtship and Marriage*, as outlined on page two, and then invites the Petitioner to complete at home her/his typed *Summary of Courtship and Marriage*. The Petitioner can also be invited to save the *Summary* on a thumb drive, if she/he wishes the Interviewer to review the typed *Summary* at the next appointment for possible suggestions for amendments or additions.

Page 3: The Interviewer reviews the following with the Petitioner:

- (i) “List of Witnesses”: review the instructions at the top of page three; a minimum of two witnesses is needed, but three are recommended; while the instructions note that children cannot be accepted as witnesses, sometimes adult children can be accepted as witnesses, depending on the circumstances of the case – please consult with the Chancery Office if the Petitioner wishes adult children to be involved;
- (ii) “List of Experts”: as noted, the testimony of experts can play a role in the case, if the Petitioner is willing to provide the name(s) of the expert(s), contact information, and consent for release of information; in this case, the Petitioner is given pages 8 (List of Experts) and 8a (Consent for Release of Information Form) to complete at home;
- (iii) “Documents Required”; the listed documents need to be collected by the Petitioner and brought to the next-scheduled interview

The Interviewer also distributes and reviews with the Petitioner:

- (i) the “Witness Consent Form”: it is important that the Witness check off the box indicating whether she/he is a Witness for the Petitioner or for the Respondent;
- (ii) the Petitioner or Respondent is to give to each Witness a copy of the “General Information for Witnesses” page which outlines the Witness’ responsibilities;

- (iii) as noted earlier, the Tribunal recommends that at least three witnesses be involved; therefore, the Interviewer should give the Petitioner three copies of the “Witness Consent Form” and three copies of the “General Information for Witnesses” page;
- (iv) if applicable, the Interviewer gives the Petitioner page 8, “List of Experts”, and page 8a, “Consent for Release of Information Form” for completion at home.

Page 4: The Interviewer goes over the sections, “Additional Information”, as well as explaining the costs of the annulment process. The Diocese of Prince George is invoiced an amount of \$2500.00 per completed case by the Vancouver Tribunal (i.e., to cover administrative costs; personnel costs; etc). If the Petitioner is financially-capable of covering this cost, he/she is asked to provide this fee, **payable to RCEC**. If the Petitioner cannot pay the full fee of \$2500.00, the Diocese of Prince George will subsidize a portion of the cost. The Petitioner’s parish community is also encouraged to make a contribution toward this fee when possible (see: [FORMAL NULLITY CASE FEE](#)).

If needed, “Previous Marriages” (page 7) is distributed to the Petitioner for completion at home.

STEP THREE: FOLLOW-UP INTERVIEW WITH THE PETITIONER

The Petitioner is to bring all pertinent documentation reviewed in the Step Two interview to this follow-up interview. The Interviewer, in turn, checks to ensure that all documentation given to the Petitioner at the Step Two interview has been fully completed (e.g., pages 1, 3, and 4; and possibly pages 7, 8, and 8a).

The Interviewer also ensures that a “Witness Consent Form” has been fully completed by the three Witnesses, checking for the presence of: an address; a telephone number; an email address; the length of time known; and a personal signature.

The Interviewer can offer to review the Petitioner’s typed *Summary of Courtship and Marriage* at this interview to determine that the significant sharings from the Preliminary Interview and any pertinent grounds for nullity have been included. If significant pieces of information happen to be missing in the typed document, the Petitioner can be given an opportunity to amend the typed *Summary of Courtship and Marriage* in the Interviewer’s office (i.e., using the thumb drive) OR to do so in the privacy of her/his home. If this is the case, another interview should be set up to review the amended document.

The Interviewer then reviews the “Agreement of Understanding” (page 6) with the Petitioner. Particular focus should be given to the paragraphs listed below, for by signing the document, the Petitioner gives consent to the matters outlined on the page:

- Paragraph # 3: sometimes, a Tribunal will seek the consultation of an expert in view of him/her reviewing the case documentation and providing a professional assessment (e.g., a psychologist might be contracted to provide an assessment in relation to perceived grounds rooted in a psychological nature);
- Paragraph # 4: this paragraph is self-explanatory; the Tribunal does not often share the noted information with the listed parties, but the Petitioner needs to be aware of the possibility of such information-sharing for the purposes of counselling and/or pre-marital preparations;
- Paragraph # 5: this paragraph explains that the Petitioner, in signing the Agreement of Understanding, waives any rights to use the information collected or shared during the Tribunal judicial process in civil litigation (i.e., for the Tribunal process is *only* investigating the marriage in question within the purview of canon or Church law, not civil law).

The Petitioner is asked to sign and date the Agreement of Understanding.

The Petitioner is then asked to fill out and sign the “Petition” (page 5) as an indication that she/he is formally petitioning for a Nullity of Marriage (Annulment).

The Interviewer collects and organizes all of the documentation (i.e., except, perhaps, the *Summary of Courtship and Marriage*, if the Petitioner is wanting to amend it and review it at an additional interview).

When all of the documentation is complete and collected, the Interviewer types a cover letter to accompany the pertinent documentation. The letter should identify the Interviewer and give a brief explanation of the Interviewer’s role thus far (e.g., “As pastor, I completed the required interviews and accompanied the Petitioner during the documentation process”).

The cover letter is addressed as follows:

Reverend Joseph Thoai Le, JCL,
Judicial Vicar - Vancouver Regional Tribunal
John Paul II Pastoral Centre
4885 Saint John Paul II Way
Vancouver, BC V5Z 0G3

The Interviewer, in turn, makes one photocopy of the cover letter and the accompanying documentation; the copied letter and copied documentation are to be kept in a secure file in the pastor's office.

NB. When the case comes to completion (OR if the case is not accepted for review by the Tribunal), the copied letter and copied documentation (noted above) should be shredded. The ONLY documentation that should be kept in the parish records is any post-case communications sent by the Tribunal to the parish (e.g. the letter of *Decree of Ecclesiastical Nullity of Marriage*).

The original documentation, with cover letter, is then mailed to the Chancery Office addressed to the attention of BOTH the Chancellor AND the Vice-Chancellor (i.e., in case one is away from the office for an extended period of time). The Chancery Office will review the file and then forward it to the Vancouver Regional Tribunal Office.

STEP FOUR: RECORDED INTERVIEWS & TRIBUNAL REVIEW

When the pertinent documentation has been received by the Vancouver Regional Tribunal Office and reviewed by the judges, a determination is made as to whether or not the case will be formally accepted for judicial process.

If the case is formally accepted for judicial process, every effort is made by the Tribunal staff to contact the Respondent for he/she has a right to be informed that a petition has been submitted, as well as to participate in the process.

Our Chancery Office, in turn, receives a variety of Questionnaires from the Tribunal for the purposes of conducting interviews with the Petitioner and Witnesses; if the Respondent has decided to participate in the process, he/she is interviewed as well. The Questionnaires contain specific questions to be asked of the pertinent parties within an audio-recorded interview. The recorded interviews are transferred onto a thumb drive and sent to the Tribunal Office, along with an accompanying cover letter. The recorded interviews are transcribed by personnel of the Regional Tribunal office and the transcriptions, along with the other documentation, are submitted to the Tribunal judges for review.

Formal Case Process:

PROCEDURES CONDUCTED BY THE VANCOUVER REGIONAL TRIBUNAL

The judges of the Vancouver Regional Tribunal then deliberate based on the information submitted. If further clarification is needed, it is requested of the particular parties.

Both the Petitioner and the Respondent are given an opportunity to read the *Summary of Courtship and Marriage* prepared by the other party (i.e., if the Respondent also chooses to complete one) and the transcription of the interviews that they gave (i.e., this is a step called *The Publication of the Acts*). In turn, the respective parties are given an opportunity (if she/he so chooses) to respond, in writing, to comments made by the other.

This documentation is then forwarded to the Vancouver Regional Tribunal Office for final processing and the rendered sentence (i.e., the judgment of the Tribunal either in the Affirmative, granting a Declaration of Nullity, or in the Negative, upholding the marriage in question as valid).

When the judges of the Vancouver Regional Tribunal Office have completed the judiciary process and have come to a decision regarding the case:

- 1) A *Decree of Publication of the Sentence* is issued by the presiding judge. In turn:
 - (a) our Chancery Office is informed of the sentence (usually by email and/or letter)
 - (b) our Chancery Office is then sent the *Definitive Sentence in the First Instance* (which gives a lengthy explanation of the sentence), along with a brief letter of explanation.
 - (c) the Petitioner and the Respondent DO NOT receive the *Definitive Sentence in the First Instance*, but only a letter to inform them of the definitive sentence. The letter also notes any warnings or prohibitions (i.e., a *monitum* or *vetitum*) that may have been set by the Tribunal.
- 2) The Respondent is notified in the above-mentioned letter that he/she has 15 days in which to issue an appeal of the definitive sentence. If the Respondent does not wish to make an appeal, no action is required and the sentence goes into effect 15 business days from the date of the issued letter.

If the Respondent wishes to appeal, he/she must notify the Vancouver Tribunal Office within the 15 allocated days so that appropriate arrangements can be made to issue an appeal to the Canadian Appeal Tribunal in Ottawa OR, possibly, to the Apostolic Tribunal of the Roman Rota in Rome. When all matters have been reviewed, and a new *Definitive Sentence in the Second Instance* has been issued by the Appeal Tribunal, our Chancery Office is informed, and a copy sent to it. In turn, the Petitioner and the Respondent are informed by letter of the Appeal Tribunal's sentence. The *Definitive Sentence in the Second Instance* is legally binding, even if it overturns the *Definitive Sentence in the First Instance*.

- 3) However, if no appeal has been made by the Respondent within the 15 days, a copy of the *Decree of Ecclesiastical Nullity of Marriage* (also called an *Executionary Decree*) is sent to the Petitioner and to the Respondent. This document gives a *summary version* of the Definitive Sentence that the Chancery Office receives from the Tribunal. For legal matters, and matters of prudence, the Petitioner and the Respondent *do not* receive the full version of the Definitive Sentence.
- 4) The Parish Priest(s) of the parish(es) of Baptism and the place of Marriage (i.e., where the attempted marriage occurred) are informed by letter that the marriage has been declared null, with instructions to make the necessary notation in the respective sacramental registers; however, they do *not* receive a copy of the Definitive Sentence (either # 1 or #2), nor the Executionary Decree.
- 5) In the case of a New Marriage: nothing is sent from the Tribunal Office to the place where the new marriage will be celebrated.

NB. For a more comprehensive explanation of the Declaration of Nullity process at the Tribunal level, please see the [Diocese of Madison website](#)

**APPENDIX A:
FREQUENTLY ASKED QUESTIONS
ABOUT THE DECLARATION OF
NULLITY (ANNULMENT) PROCESS**

1. What is 'Marriage' as Defined by the Church?

Faithful to the Lord's call, expressed in the Gospels and the Tradition of the Church, the Church sees marriage as a covenant between a man and a woman whereby they establish between themselves a partnership for their whole life. This partnership for life is established in the freely-given consent (i.e., 'vows') of a man and a woman in the marriage rite. This consent is an act of the whole human person and it involves psychological, physical, and spiritual dynamics.

By its very nature, this partnership is ordered to the mutual well-being of the spouses and to the procreation and upbringing of children. The nature of this covenant demands total fidelity on the part of the spouses and establishes an unbreakable bond between them. The Catholic Church teaches that every valid marriage is permanent and that a valid marriage between baptized persons is a sacrament. For the good of all concerned (spouses, children, in-laws, society and the Church) every marriage, whether between Catholics, Christians of other denominations, or non-baptized persons, is presumed to be valid until proven otherwise.

2. What is an "Annulment"?

An "Annulment" (or its formal title, a "Declaration of Nullity") is a judgement from a Catholic Church Tribunal that a marriage was not a valid Christian marriage from the start -- *as the Church defines or understands marriage* (i.e., the Declaration of Nullity has nothing to do with the civil or legalistic dimension of the marriage). Because the Church sees marriage as a call to mutual self-giving for the good of the spouses and the nurturing of children, the question of validity addresses whether the spouses were capable of, and open to, entering into a permanent commitment. If it can be shown that something essential was lacking at the time of the exchange of consent (i.e., the 'vows'), then the Church declares the marriage "null" or invalid; hence, the title, Declaration of Nullity. The annulment process can help people come to peace within themselves and with the community of the Church, after a failed marriage ends in divorce.

3. What is the role of the Tribunal?

Marriage courts (or tribunals) are staffed by specially trained and experienced priests, religious and lay persons who see their role as one of a healing ministry. In short, they give special attention to the words of Pope Pius XI who defined the role of the Tribunal in these words: "to care for the dignity of marriage; to work for the good of the persons."

In keeping with the spirit of Pope Pius XI's definition, the Tribunal staff investigates the failed marriage using a judicial process to determine whether or not there are any grounds acceptable in church law for a Declaration of Nullity. The Tribunal works towards this end by diligently protecting the rights of a man and a woman in a specific marriage, as well as the rights of the Church, which have all been charged by Christ to be the guardians of the Sacrament of Matrimony. The goal of the Tribunal then is two-fold: (1) to be "prophetic" (to teach what Jesus taught) and (2) to be "pastoral" (to minister to those people whose marriages have ended in a civil divorce).

Any person (i.e., Christian or non-Christian, Catholic or Protestant) who wishes to enter marriage in the Catholic Church, and who has a former spouse who is living, needs to look at the possibility of a Declaration of Nullity (i.e., either Local Case Process or Formal Case Process) in order to determine that they are free to marry in the Catholic Church. For the Catholic Church, as part of its fundamental teaching on marriage, does not recognize divorce as ending the bond established in marriage.

4. Where do I begin?

Contact your parish priest to set up an appointment to complete a Preliminary Interview. During this interview, the parish priest (or his assigned delegate) will collect information from you to determine what type of process (if any) needs to be followed. If it is determined that a Declaration of Nullity – Formal Case Process is required due to the circumstances of your individual situation, various documents will need to be completed and further information gathered. That documentation would then be forwarded to the Prince George Diocese Chancery Office for processing with the Vancouver Regional Tribunal.

5. What follow up steps are involved?

- Your file of documentation would then be reviewed by the Vancouver Regional Tribunal judges.
- If the judges decide that there is merit to your case being heard, you will be formally interviewed, under oath, by a designated person (i.e., usually your parish priest or the Chancellor or Vice-Chancellor of the Prince George Diocese).
- Your former spouse (i.e., referred to as the Respondent) will be notified about the proceedings and a formal interview will be arranged with him/her, if he/she agrees to participate.
- Witnesses will also be interviewed, and experts may be consulted (e.g., psychologist).

- The gathered testimonies will be reviewed by the Defender of the Bond and the Defender will offer the judges his/her observations. The Defender of the Bond's role, as the title suggests, is to defend the marriage bond (i.e., to present reasons, based on the case documentation, that the original marriage bond should be upheld and considered valid). Your assigned Advocate, in turn, would argue reasons in support of a Declaration of Nullity being granted by the Tribunal judges.
- Three Judges will study the evidence presented and give their decision on the case, either in the Affirmative (i.e., granting the petition for a Declaration of Nullity of the original marriage) or in the Negative (i.e., declining the petition for a Declaration of Nullity of the original marriage, and confirming its ongoing validity). This decision by the tribunal judges is referred to as a *Definitive Sentence in the First Instance*.
- If the Respondent wishes to appeal an Affirmative decision by the judges, the case would be sent to the Canadian Appeal Tribunal in Ottawa for a mandatory examination and a *Definitive Sentence in the Second Instance*. This second sentence is binding. IF a second instance decision is rendered, you and your former spouse would be notified.

6. Why is my former spouse contacted?

Catholic Church law requires us to notify your former spouse (i.e., referred to as the Respondent) of the fact that you are seeking a Declaration of Nullity of your marriage. Your former spouse is offered the opportunity to participate in the proceedings and present his/her own testimony. You are asked to provide us with your former spouse's contact information and address. Failure to do so will only extend the overall processing time.

7. What about Witnesses or Expert Testimonies?

We require from you the names of Witnesses (people knowledgeable about both parties during the courtship and marriage), who can assist the Tribunal in a deeper understanding of you, the Respondent, and your marriage. We ask you to contact these people and to obtain their permission to be called and interviewed. All information received from Witnesses is kept private and confidential at the Tribunal Office (i.e., in keeping with the Tribunal process, only you, the Respondent, and the Tribunal Staff are able to read the Witness testimonies).

Sometimes experts in the medical/mental health field (e.g., doctors, psychologists and/or professional counsellors) have been consulted before or during a marriage in

question. If this is applicable, you may wish to have such experts provide the Tribunal with a written assessment that will be of great value in their study of the marriage. If this is the case, please provide the complete name(s) and address(es) of the professional(s) and complete a *Consent for Release of Information Form*.

8. How long will it take?

The Tribunal attempts its utmost to finish and finalize the proceedings within one year; however, it is not possible to guarantee any length of time due to factors that may be beyond the Tribunal's control – such as difficulty in contacting and obtaining the cooperation of the Respondent or of knowledgeable Witnesses, or other unforeseen circumstances.

9. Should I call the Vancouver Regional Tribunal Office?

Please contact the Vancouver Regional Tribunal Office if you have new evidence to support your case or if you have names of additional Witnesses. Also, let them know if you have a change of address and/or phone number. Whenever you call or write the Tribunal, please refer to your protocol case number and the last names under which the case is listed (i.e., the Petitioner's name is always listed first, then the Respondent's).

10. How much will it cost?

The Diocese of Prince George asks that the Petitioner pay a fee of \$2500.00, as that is the amount that our diocese is invoiced by the Vancouver Regional Tribunal when a case has been completed (i.e., see '*Formal Nullity Case Fee*' form). The amount of \$2500.00 only partially defrays the actual operational costs of the Vancouver Regional Tribunal Office with its salaried and professional staff.

If there is financial need, the Diocese of Prince George will subsidize a portion of the cost. Any financial assistance from the Diocese of Prince George will be reviewed on a case-by-case basis. If the Petitioner is in financial need, he/she might also wish to check with his/her parish priest about the possibility of financial aid from the parish.

11. Are there any civil effects to a declaration of nullity?

No. A Declaration of Nullity from the Church has *no civil effects* in Canada. A decree of civil divorce, based on the observance of provincial law, is needed to end the civil

recognition of the union. A civil decree of divorce, therefore, declares that the civil contract between the spouses has been terminated as of a certain date.

12. What is the status of a divorced Catholic in the Church?

Catholics who are divorced, and have not entered into another civil union, are encouraged to practice their faith fully, including participating in the Sacramental life of the Church. Merely being separated or divorced does not change one's status in the Church. Divorced Catholics are full members of the Church with all of the same rights as any other member.

Catholics who have divorced and have entered into another union, without a Declaration of Nullity, are encouraged to trust and to find hope in a Spiritual Communion with Christ during the Mass. They are still encouraged to pray at Mass and to practice the other aspects of their faith while a decision from the Tribunal is pending.

13. What about a future marriage in the Catholic Church?

Please note that a date for marriage in the Church cannot be set until a Declaration of Nullity has been actually granted.

If the prior marriage is, indeed, declared null (invalid), discussions about marriage to an intended spouse should be initiated with your parish priest (or the parish priest of the Catholic person whom you intend to marry). The parish priest, in turn, will advise you on arrangements. This will include all diocesan requirements for marriage preparation.

In some cases, a restriction or a condition is attached to the Declaration of Nullity. If this is the case, it is because the Tribunal has identified possible existing or ongoing issues that need to be addressed (e.g., perhaps in counselling) before permission for marriage in the Church is granted. This is to assure that causes which rendered the past marriage invalid will not affect the validity of a future marital union.

**APPENDIX B:
GROUNDS FOR NULLITY**

A “ground”, or reason, for nullity is based upon the interplay of the intellect (understanding) and the will (intention) *at the moment of consent*.

Below, you will find a list of the principal reasons (“grounds”) for which a marriage can be declared invalid, based on Church law. A Tribunal can investigate one or more of these grounds, on the part of the Petitioner (who is seeking the annulment), the Respondent (the civilly-divorced spouse), or both the Petitioner and Respondent.

Insufficient Use of Reason (Canon 1095, 1°)

To enter a valid marriage, a person must have the degree of reasoning ability sufficient to know and understand what marriage is and what he or she is doing at the time of marriage. Serious conditions, such as profound mental retardation, certain personality disorders or black-out states (caused by alcoholic intoxication, drug use, or seizure disorder), might prevent a person from possessing or using reasoning ability during the marriage ceremony. If one or both spouses lacked the use of reason during the wedding ceremony itself, this ground can be considered.

Possible Evidence of this Ground: 1) grave disturbance of the mind; 2) diagnosed mental insanity; 3) a significant degree of intoxication due to substance abuse at the time one says their vows.

Exploratory Questions Related to this Ground: *Did either you or your former spouse abuse drugs or alcohol to the extent of suffering from blackout periods? If so, did either of you use drugs or alcohol before the wedding ceremony? Were either of you intoxicated, “stoned,” or “high” during the ceremony? Were either you or your former spouse ever diagnosed with a very low intelligence or with a serious learning disability, or serious difficulty with the ability to reason? Were either of you ever diagnosed with a mental disability or a mental illness that caused blackout or delusional episodes? If so, did such an episode occur at the time of the wedding ceremony? Did either you or your former spouse suffer from epilepsy and grand mal seizures? If so, did a seizure occur just before or during the wedding ceremony?*

Grave Lack of Discretion of Judgment (Canon 1095, 2°)

To enter a valid marriage, a person must have use of sound reason and mature judgment. This means that the person is making a prudent and free decision, after careful judgment, to enter marriage with a particular person, and that the decision is not impulsive or without forethought. If one or both spouses either lacked sufficient knowledge of

marriage or failed to exercise mature judgment in choosing to marry, this ground can be considered. Because it requires a grave lack of discretion of judgment, this ground may be difficult to prove.

Possible Evidence of this Ground: 1) significant immaturity/irresponsible behavior on the part of either party; 2) inability to keep employment; 3) “party” mentality; 4) extreme control/domineering of one party over the other; 5) dysfunctional family of origin; 6) bad examples of marriage in parents/grandparents; 7) desire to escape one’s own family; 8) pressure of premarital pregnancy; 9) disregard for warnings of others about marrying the other party; 10) overlooking obvious red flags prior to getting married.

Exploratory Questions Related to this Ground: *Did either you or your former spouse have extremely little or no dating experience before becoming engaged? Were either of you on the “rebound” from a broken engagement or previous marriage when you decided to enter this marriage? Did you see marriage as simply “the next step” without much consideration? Did the two of you date for only a brief time? Was the decision to marry made impulsively, or without much thought? Did either of you make immature and impulsive decisions in other areas of life (career, finances, etc.)? Would you say you really did not know one another well enough to marry when you did? Was your decision to marry based on some pressing issue or circumstance (for example, a pre-marital pregnancy, difficult home situation, peer pressure, escape from another relationship)? Did family or friends express serious concerns about this marriage and did you choose to ignore them?*

Incapacity to Assume the Essential Obligations of Marriage (Canon 1095, 3°)

To enter a valid marriage, a person must have the psychological ability to take on and to live out the lifetime obligations of marriage. A person cannot consent to something that is beyond their psychological capacity to fulfill. Even if the condition became known or diagnosed only after marriage, if a person was afflicted at the time of marriage with a serious psychological or psychiatric condition that prevented him or her from assuming the obligations of marriage, the marriage was invalid. Proof of the condition must be provided, however, and often the Tribunal will require a current evaluation by a mental health professional. Because the ground requires incapacity and not merely diminished capacity, it may be difficult to prove.

Possible Evidence of this Ground: 1) serious mental condition that has onset prior to the marriage; 2) incurable mental illness that renders the person unable to function in the marriage despite treatment; 3) deeply-rooted homosexual inclinations.

Exploratory Questions Related to this Ground: *Were either you or your former spouse diagnosed with a serious psychological illness? Even without a specific diagnosis, did either of you suffer from a serious mental illness at the time of your marriage? Did either of you have any addictions at the time of the wedding (alcohol, drugs, prescription drugs, etc.)? If the answer to any of these questions is yes, did the illness or addiction prevent either of you from living out the commitment you made to each other or to your children? At the time of your marriage, did either of you have any serious sexual disorder, serious questions about your sexual identity, or homosexuality? If so, did this affect the ability to live out the commitment to marriage?*

Ignorance of the Societal Nature of Marriage (Canon 1096)

To enter a valid marriage, a person must have some basic knowledge (i.e., not be ignorant) of what marriage is all about. A necessary element of that knowledge is to know that marriage is a permanent partnership between a man and a woman. If a person truly has no knowledge that marriage is such a partnership, because of tragic or extremely dysfunctional circumstances in his or her personal or family background, this ground may apply.

Possible Evidence of this Ground: 1) declaration of the parties; 2) repressive family background; 3) dullness of social development;

Exploratory Questions Related to this Ground: *Did either you or your former spouse come from a family background where there were many divorces, separations, or live-in relationships? Did either of you have the experience of growing up in several households, whether among relatives or foster parents? Did either of you grow up in an institution, such as an orphanage? If so, can you say that there was never a role model for a happy or healthy marriage? Can you say that either you or your former spouse did not know when you married that marriage is a permanent partnership? Were either of you reared in an environment that was extremely sheltered (to an unhealthy degree)? Were there any cultural factors that influenced your knowledge of what marriage was all about? Were either of you surprised or shocked after marriage by what marriage was all about? Did you separate or divorce quickly after discovering what marriage was all about?*

Ignorance of the Sexual Nature of Marriage (Canon 1096, con't)

To enter a valid marriage, a person must have some basic knowledge (i.e., not be ignorant) of what marriage is all about. A necessary element of that knowledge is to know that marriage by its nature involves openness to children by means of sexual cooperation between the spouses. Although such ignorance is not presumed in persons

beyond the age of puberty, this ground may be considered if one or both spouses were truly ignorant of this fact.

Possible Evidence of this Ground: 1) horror or repugnance at first attempt of intercourse; 2) grave shyness or even shame about sexual matters; 3) disinterest in sexual intimacy; 4) the party did not give the other person the right to intercourse.

Exploratory Questions Related to this Ground: *Were either you or your former spouse extremely young when you began dating the other? If so, was this dating relationship the only one before marriage? Did either of you come from a family background where there was no discussion at all of sexuality? Did either of you enter marriage with absolutely no understanding of human sexuality and sexual intercourse? Were either of you reared in an environment that was extremely sheltered or sexually repressed (to an unhealthy degree)? Were there any cultural factors that influenced your knowledge of human sexuality and sexual relations? Were either of you surprised or shocked after marriage to learn about sexuality or sexual relations? Did you separate early in the marriage because of an unwillingness to engage in sexual relations?*

Error of Person (Canon 1097, §1)

To enter a valid marriage, one must know the person he or she is marrying. In other words, marital consent is exchanged with a specific man or woman and it is essential to have true knowledge of who that person is. If one spouse made a substantial error in judgment concerning the true identity of the intended spouse, or in other words married the wrong person, this ground could be considered. The error in question is not about details of personality or behavior, but a serious error about the identity of the other spouse. Use of this ground is extremely rare in this country and culture.

Possible Evidence of this Ground: self-evident: the party married an unintended spouse.

Exploratory Questions Related to this Ground: *Was your marriage arranged by someone else? Did you and your spouse agree to marriage through a "mail-order" arrangement or other similar means? Did you meet your former spouse for the first time at the ceremony or shortly after? Was your courtship at a distance? Did you actually spend very little time together, alone, before marriage? Was your intended spouse not the person you thought you were marrying? Did you discover after marriage that the person you married was not, in fact, the person you intended to marry? Did you react with shock or surprise when the error was discovered? Did you separate immediately afterward, or did your marital relationship change immediately afterward?*

Error About a Quality of a Person (Canon 1097, §2)

To enter a valid marriage, one must know the essential qualities of the person he or she is marrying. If, at the time of marriage, one spouse was mistaken about a quality directly and principally intended in the other spouse (almost as a condition for marriage) then this ground could be considered. This ground might apply if you or your former spouse intended to marry someone who possessed a certain quality (perhaps of a moral, social, physical, religious, psychological, or legal nature) and the primary reason for entering this marriage was the belief that the intended spouse possessed that quality. The intended quality must be of such a magnitude that without it, the person would not have married the other.

Possible Evidence of this Ground: never revealed a certain important quality; concealed infertility; concealed homosexuality; criminal record with consequences to the marriage; concealment of sexual disease; concealment of drug and alcohol addiction.

Exploratory Questions Related to this Ground: *Was there a certain quality or trait that either you or your former spouse were looking for in a prospective husband or wife (for example, a certain social status, marital status, education, a certain profession, religious conviction, freedom from addiction or disease, freedom from an arrest record)? Did you or your former spouse consider that trait so important in a prospective spouse that you would marry only someone who possessed that trait? Would this marriage have been called off if the other person did not possess that quality? When it was learned that you or your former spouse did not possess that quality, did the other spouse react with shock or surprise? Did you separate immediately afterward, or did your marital relationship change immediately afterward?*

Fraud or Deceit (Canon 1098)

A person who enters marriage deceived by fraud, which is perpetrated to obtain the marital consent of the other person, marries invalidly. Fraud is the intentional act of deception. It can be perpetrated by the other spouse or by a third party, but the end result is the same: one of the contracting parties consents because he/she was deceived into doing so. If fraud or deceit took place in order to make marriage happen, this ground can be considered.

Possible Evidence of this Ground: history of being deceitful; special arrangements to avoid detection; concealing infertility; concealed health or mental issues; concealed criminal record.

Exploratory Questions Related to this Ground: *Did you or your former spouse intentionally misrepresent or conceal information necessary for the other person to make a well-informed marital decision? Did someone else (a parent, for example) misrepresent or conceal information necessary for a well-informed marital decision? Was the deception intentionally done in order to get the other person's agreement to marry? If the truth had been known, and the deception not carried out, would the marriage not have occurred? If the deceit was later discovered, did it have an immediate effect on the marriage? Did the separation or divorce occur because of this?*

Error Concerning the Unity of Marriage (Canon 1099)

For marriage to be valid, both spouses must know that absolute faithfulness to one another is part of the nature of marriage. If one or both spouses entered marriage with an erroneous belief that infidelity, polygamy, or polyandry was possible, this ground could be considered. This belief must have been firmly held, or in other words, marriage could not be conceived of in any other way than allowing for infidelity or multiple spouses or sexual partners. What invalidates the marriage is the error, present from the beginning, that marriage does not include the need for sexual fidelity. Adultery itself is not a ground for nullity.

Possible Evidence of this Ground: if an error about the Church's teachings determines one's will to enter the marriage, the consent was invalid (i.e. one believes that a marriage is dissolved when their spouse is unfaithful). If a person leaves the marriage upon this occurring, this error regarding the permanent nature of marriage can be said to have determined their will. The error must determine one's action. Simply having an erroneous belief about marriage and not acting on it is not enough.

Exploratory Questions Related to this Ground: *At the time of marriage, did either you or your former spouse believe that it was acceptable to have other sexual partners after marriage? Was there anything in the family background to explain the belief that marriage was not an exclusive (totally faithful) relationship? Were you or your former spouse reared in a home environment where there was sexual infidelity, or cohabitation, or several sexual partners? Did either family consider infidelity or living together acceptable or desirable? Had either you or your former spouse been unfaithful in previous relationships? Were either of you reared in a home in which no religion was practiced, or a religion that accepted polygamy? At the time you married, did you or your former spouse accept the notion of an "open" marriage? Did either of you accept the idea of multiple sexual partners, or "exchanging" partners with others? Were either of you unfaithful during your courtship or engagement? Did either of you consider cohabitation or living together to be acceptable or desirable? Were either or both of you sexually unfaithful during the marriage?*

Error Concerning the Indissolubility of Marriage (Canon 1099, con't)

For marriage to be valid, both spouses must agree to the absolute permanence of marriage. If one or both spouses entered marriage with an erroneous belief that marriage may be a temporary arrangement, that divorce was always an option, or that remarriage was always a possibility, this ground could be considered. The error could include the notion that marriage lasts only as long as the spouses decide, or only as long as they remain in love, or that the state has the authority to dissolve a marriage through divorce. This belief must have been firmly held, or in other words, marriage could not be conceived of in any other way than allowing for the possibility of ending or dissolving the marriage.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Were either you or your former spouse reared in a home with no religious practice? Were either of you from a family background in which there were multiple instances of divorce and remarriage? Did either of your families consider divorce and remarriage acceptable or desirable? Did either you or your former spouse believe that your marriage would not be permanent? Did you sign a pre-nuptial agreement because you thought the marriage might not be permanent? Did either of you accept the idea of a "trial" marriage, with the understanding that you could divorce if it did not work out? At the time you entered this marriage, would you have said that you could divorce and remarry for a particular reason (for example, physical abuse, adultery, unhappiness, illness)? If you and your former spouse had been told that divorce and remarriage would be impossible for any reason, would either of you have backed out of the marriage? Did either of you clearly believe that it was your right to divorce or remarry at will?*

Error Concerning the Sacramental Dignity of Marriage (Canon 1099, con't)

A person may enter marriage validly when he or she is in simple error (holding a false opinion) about the sacred character or sacramental nature of marriage between two baptized people. However, if one or both spouses entered marriage with an erroneous belief that marriage is simply a civil or secular matter and that it has no relation to the sacred for the baptized, this ground may be considered. This belief must have been firmly held, or in other words, marriage could not be conceived of in any other way than as civil or secular in nature.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Did either you or your former spouse come from a family environment in which there was no practice of religion? Did either of you come from a religious background which taught clearly that marriage is not a sacrament or not a sacred bond? Did either of you firmly believe that marriage was merely a civil contract, having only civil effects, with no relationship to religion or the church? Were you married by a judge or civil official, because you did not want a church wedding? Did either or both of you intend to enter only a civil contract of marriage, with no thought of religious overtones? If you answered yes to any of the above questions, would that spouse have called off the marriage if the other person insisted on a church wedding, or insisted that marriage was a religious matter? Did either of you believe so strongly that marriage was only secular in nature that you could never envision marriage as having some religious or sacred element to it? Did either of you have a hatred or aversion toward religion?*

Total Simulation & Partial Simulation of Marriage (Canon 1101)

To simulate consent means to say one thing externally, but to intend something quite different internally. If a party enters into marriage for reasons other than truly establishing a marital union and this is done intentionally, the marriage will then be invalid either on the basis of “Total Simulation” or “Partial Simulation.”

a) Total Simulation:

“Total Simulation” refers to intentionally withholding consent to the marriage itself. This ground may be considered if one or both spouses “pretended” to marry, and not intend to enter a genuine, lasting marriage. For example, if a party enters into marriage simply to establish legal residence in Canada and does not intend to enter into an actual marriage with the other party, this would be “Total Simulation.” In cases of total simulation, the Tribunal will attempt to discover the motivations for such an action. Why did the person exclude marriage itself? Witness testimony or other means of establishing the intention of the party will be essential in order to find in the affirmative on this ground.

Possible Evidence for this Ground: 1) married to obtain legal status in the country; 2) to legitimize a child; 3) refusing to give a new consent again at the convalidation of an invalid marriage and thought the Church ceremony was only a blessing and not a real marriage.

Exploratory Questions Related to this Ground: *Was this an arranged marriage, that is, you and your former spouse were “told” to marry by someone else such as your parents? Did you and your former spouse agree to marry for some reason other than being in love and wanting to marry one another? Was there some reason you decided to go through a wedding ceremony without being in love (for example, to obtain citizenship, to escape your childhood home, or for insurance, welfare, or financial purposes)? If you answered yes to any of these questions, did you separate shortly after marriage, or as soon as other conditions were met?*

b) Partial Simulation:

“Partial Simulation” refers to withholding consent to an essential element or property of marriage; examples of Partial Simulation are listed below:

- i) Intention Against the Good of Permanence (c. 1101, § 2):** A valid marriage includes three essential “goods” — children, fidelity and permanence. If one or both spouses entered marriage with the intention to exclude the lifelong permanence of marriage, this ground can be considered. Marriage, by its very nature, is a permanent partnership which cannot be broken or dissolved by the spouses themselves. The marriage is invalid if one enters it with the intention to make the marriage only temporary, to keep divorce and remarriage as an option, or reserving the right to decide at any time to end the marriage.

Possible Evidence of this Ground: 1) a party reserved the right to leave the marriage if the marriage became unhappy; 2) if one party was unfaithful; 3) if one party failed to live up to the other’s expectations, etc.

Exploratory Questions Related to this Ground: *Did either you or your former spouse believe that you had the right to end the marriage at any time and possibly remarry someone else? Did either of you intend a “trial marriage?” Did either of you come from a religious background which taught that divorce was acceptable, perhaps under certain circumstances (for example, adultery, physical abuse, unhappiness, illness)? Were either of you divorced and remarried several times before entering this marriage? If so, did that person view marital commitment in such a way that it necessarily included divorce as a possibility? Was divorce included as an option for dealing with an unhappy marriage? Was there a history of divorce in either your family or your former spouse’s, or among friends? Did you sign a pre-nuptial agreement because you*

intended divorce as a possible option? Do you think the marriage would have been called off if you and your former spouse had been told that the marriage was absolutely indissoluble, and that divorce was never possible?

- ii) Intention Against the Good of Fidelity (Canon 1101, § 2):** As noted above, a valid marriage includes three essential “goods”—permanence, fidelity, and children. If one or both spouses entered marriage with the intention to exclude absolute fidelity, this ground can be considered. Fidelity or exclusivity in marriage means to have only one’s intended spouse as a sexual partner for life. Absolute fidelity prohibits openness to any other sexual relationships. When one enters marriage with the intention of excluding such absolute fidelity, (in other words remaining open to the possibility or thinking that they may choose whether to have other sexual partners), then the marriage is invalid. It is important to note that what invalidates the marriage is the intention present from the beginning, to permit infidelity – not actual infidelity. Adultery itself is not a ground of nullity.

Possible Evidence of this Ground: 1) one has habitually displayed infidelity in their relationships; 2) a belief in “open marriage”; 3) belief that pornography is morally acceptable; 4) a party confesses to the simulation.

Exploratory Questions Related to this Ground: *Did either you or your former spouse believe you had the right to determine if you would have other sexual partners during this marriage? If the answer is yes, did you intend to claim this right? Did either or both of you intend to have an “open” marriage which would permit other sexual partners? Did either of you come from a family background where there were many sexual partners, or live-in companions, or were your parents sexually unfaithful during their marriage? Was sexual infidelity acceptable to either you or your former spouse? Did either of you view marriage in such a way that it would permit sexual infidelity or multiple sexual partners? Was either of you sexually unfaithful to the other during your engagement? Were you sexually active before marriage? Did you cohabit or live together with your former spouse before marrying? Did either of you cohabit or live with another person before this marriage? Was there actual infidelity or adultery during your marriage?*

iii) Condition Against the Good of Children (Canon 1101, § 2):

To enter a valid marriage, a person must place no conditions or limits on the essential elements of marriage, which includes a radical openness to children. This ground can be considered if one or both the spouses placed a condition on child-bearing, such as a limit on the number of children to be born in the marriage. The condition must be present from the beginning of the marriage, and measures must have been taken to ensure that the condition was, in fact, met.

Possible Evidence of this Ground: 1) the consistent use of contraceptives throughout the marriage in order to avoid children; 2) vasectomy or getting tubes tied prior to consent with the intention of not having children during the marriage.

Exploratory Questions Related to this Ground: *Did either you or your former spouse express any condition or intention to limit the number of children in the marriage (for instance, "I will marry you on the condition that we only have one child")? Was this an absolute intention or condition, and not just a vague thought about the future? Was this a firm intention or condition, and not negotiable or changeable? Were there means taken during the marriage to guarantee the fulfillment of this condition or limit (such as contraceptive, sterilization, or abortion)? Was the condition actually fulfilled?*

iv) Intention Against the Good of the Spouse (Canon 1101, § 2):

a situation whereby, at the time of the decision to marry, you and/or your ex-spouse married with the intention (either explicitly or implicitly) not to form a mutually-giving union. This may include infidelity, abuse, neglect, nonsupport, irresponsibility and/or a lack of mutual love and respect.

Possible Evidence of this Ground: 1) severely selfish behavior on the part of one party at the expense of another; 2) one party is often absent from the marital home; 3) physical and/or emotional abuse of one's spouse.

Exploratory Questions Related to this Ground: the Tribunal will investigate for possible evidence for the above ground.

v) Intention Against Sacramentality (Canon 1101, § 2): a

situation whereby one or both parties make it known that he/she does

not believe marriage to possess sacramental dignity, and/or expresses hostility towards the Catholic faith and its teachings.

Possible Evidence of this Ground: 1) hostility towards Catholic teaching; 2) expressed skepticism regarding Catholic teachings regarding marriage; 3) failure to take marriage preparation seriously; 4) being raised in a faith that explicitly rejects sacramental theology or at least the idea of marriage as sacrament.

Exploratory Questions Related to this Ground: the Tribunal will investigate for possible evidence for the above ground.

Future Condition (Canon 1102, §1)

To enter a valid marriage, a person must have no reservation or future condition. The spouses are required to give total and free consent to marry one another. If a person enters marriage while waiting to see if in the future a certain condition will be fulfilled or not (e.g., that one's spouse will change religions in the future, or enter a certain profession, or will bear a child) the marriage was invalid. Often a condition is attached because of doubts about the intended spouse. This ground can be considered if one or both of the spouses entered marriage with an expressed condition based on some event in the future.

Possible Evidence of this Ground: the mentality that if a certain condition cannot happen, then the marriage is not wanted, i.e. my spouse must be or become a millionaire or a doctor, etc.; prenuptial agreement on a future condition; circumstance agreed upon prior to the marriage that were not fulfilled and one party left the marriage; conditions are often placed because of some doubt of the suitability of the person.

Exploratory Questions Related to this Ground: *Did either you or your former spouse attach any condition concerning the future to your marriage (for instance, I will marry you on the condition that: ...we will always live in this area,.. you will complete your medical degree, ...you will become Catholic, ...we will have a child together")? Did you sign a pre-nuptial agreement, thinking that divorce was an option if a future condition were not met? If you answered yes to either question, would the marriage have been called off if the other spouse did not agree to the condition? Did you marry with doubts about your former spouse which caused you to attach a condition to the marriage working out in the future? Did the condition remain unfulfilled, and if so, did this lead to the final separation or divorce?*

Past Condition (Canon 1102, §2)

To enter a valid marriage, a person must give free and unconditional consent. A past condition concerns the existence or non-existence of a fact, typically concerning the spouse's past. Placing such a past condition on the marriage raises serious questions, and it invalidates marriage when it is proven that the condition, upon which the marriage decision depended, was not fulfilled at the time of marriage. Often, a condition is placed because of doubts concerning the intended spouse. This ground may be considered when one or both spouses entered the marriage with an expressed condition based on something from the past.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Did either you or your former spouse attach any condition concerning the past to your marriage (for instance, "I will marry you on the condition that: ...you were never married before, ...you have finished college, ...you were never in jail, ...you never abused drugs before")? Did you sign a pre-nuptial agreement or any other document regarding a past condition? Would the marriage have been called off if the condition weren't fulfilled? Did you marry with any doubts about your former spouse that caused you to place a condition? Did the condition remain unfulfilled, and if so, was this a reason for the separation?*

Present Condition (Canon 1102, §2)

To enter a valid marriage, a person must give free and unconditional consent. A present condition concerns the existence or non-existence of a fact or circumstance in the present time (e.g., a medical condition, career, a character or trait). Often, a condition is placed because of doubts concerning the intended spouse. Placing such a condition on marriage raises serious questions, and it invalidates marriage when it is proven that the condition, upon which the marriage decision depended, was not fulfilled at the time the marriage was entered. This ground may be considered when one or both spouses entered the marriage with an expressed condition based on something present or absent at the time of the wedding.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Did either you or your former spouse attach any condition concerning the present to your marriage (for example, I will marry you on the condition that: ...you do not have a sexually-transmitted disease, ...you are the father/mother of*

my child, ...you are virgin, ...you do not abused drugs or alcohol, ...you are free of debt")? Did you sign a pre-nuptial agreement or any other document regarding this condition for marriage? Did you marry with doubts about your former spouse that caused you to place a condition? Would the marriage have been called off is the condition had been discovered to be unmet or false? Did the condition remain unfulfilled, and if so, was this a reason for the separation or divorce?

Force or Fear (Canon 1103)

A person must freely choose to enter marriage or the marriage is invalid. Force is a grave threat from outside the person, and may be inflicted intentionally or unintentionally, even by a well-meaning person. Fear is the internal result of the external force. It must be both grave and compelling, so that the person chooses to marry to escape from the force and fear. This ground may be considered if one or both spouses entered marriage in order to be free of some external force or some internal fear which was related to the marriage decision. The choice, then, was not so much to enter marriage, but to be free of the external force or the internal fear of the moment.

Possible Evidence of this Ground: threats of harm and the only way out was to marry; compulsion; retaliation; aversion of at least one of the parties to the marriage; strong ethnic or social mores; reverential fear of a family member.

Exploratory Questions Related to this Ground: *Were either you or your former spouse force or pressured in any way to enter this marriage? Was the marriage someone else's idea, and not yours or your former spouse's? Did either of you feel that you had no real choice whether to marry the other? Were either you or your former spouse deeply afraid that NOT marrying would bring about a serious harm or threat? Was there, in fact, a threat in not marrying? Was there someone or something threatening harm or punishment if you did not marry one another? (Force or threats could come from parents, family, employer, church, cultural expectations, etc.)*

Reverential Fear (Canon 1103, con't)

The choice to enter marriage must be made knowingly and freely, or the marriage is invalid. If one or both of the spouses chose to enter marriage principally because of a grave fear of displeasing a person who was an important authority figure, this ground could be used. As in the ground above, reverential fear is an internal emotion which arises from some external force. The external force may have been a strong suggestion (or a command) to enter marriage, or an expression of disapproval over an alternative to marriage. Acting under reverential fear, then, one chooses to marry because failure to do so would greatly displease a person or ideology which is subjectively important.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Were either you or your former spouse forced or pressured to enter this marriage by someone important in your life (for example, parents, clergy, relatives, a teacher)? If yes, was the marriage this person's idea and not yours or your former spouse's? Was someone making marriage a condition for something else (for instance, an inheritance, a job, or baptism of your child)? At the time of the marriage, were either of you dependent on parents or others to make major decisions, and if so was the marriage really decided by parents or another significant person? Was this marriage arranged by your parents or relatives, and not your choice? Do you think the marriage would not have occurred if someone important to either of you had not insisted on marriage? Did either of you actually want to call off the marriage, but felt pressured to go through with it anyway (for example, by a parent saying, "All the arrangements are made and I insist that you go through with your plans")?*

Invalid Convalidation

When a Catholic person or couple seeks to have an invalid marriage recognized by the Church, it is accomplished only through a new marriage within the Church. Each party must make a totally new decision and a new act of consent. They must understand that they are beginning their sacramental marriage, not "blessing" the existing invalid marriage. This ground applies if one or both spouses were Catholic, first entered an invalid marriage not recognized by the Church, and later had that marriage convalidated in the Catholic Church. This ground can be considered if the convalidation was not done freely and knowingly, or if the spouses did not intend to enter a new sacramental marriage at the time, but saw the convalidation merely as a continuation of the existing invalid marriage.

Possible Evidence of this Ground: see above description to determine possible evidence.

Exploratory Questions Related to this Ground: *At the time you married your former spouse, were either of you Catholic? Did the marriage first take place "outside the Catholic Church," that is, not according to the laws of the Church? If so, was it later convalidated or "blessed" in the Catholic Church? Was there a specific reason for the marriage to be validated (for example, the baptism of a child, illness of a family member, etc.)? Were there serious marital problems before the convalidation occurred, and if so, did either you or your former spouse believe that the validation or "blessing," would help solve those problems? When the marriage was validated or "blessed," did you or your former spouse believe that it was simply a type of "renewal" of your earlier marriage vows? Did either of you think that the validation was simply a ceremony to go through, and not a new commitment to marriage? Did either of you think that the civil marriage*

was your "real" marriage, and the validation was just a formality? Did you continue to celebrate your anniversary on the date of your original marriage outside of the church?

PART B:
THE THREE TYPES OF
DISSOLUTION OF MARRIAGE

The Dissolution of a Prior Marriage Bond

All marriages are considered to be *intrinsically* (or by nature) indissoluble. That is, the partners to the marriage are not free to dissolve their marriage simply by mutual consent without any legal or authoritative intervention of some kind. This is the Church and society have a legitimate interest in the marriage.

In addition, some marriages are deemed *absolutely* indissoluble, meaning that they *cannot* be dissolved by an outside authority. For example, the Catholic Church teaches that a ratified and consummated *sacramental marriage between two validly-baptized Christians* is *absolutely* indissoluble (i.e., it cannot be dissolved by any human power; see Canon 1141).

The following marriages, on the other hand, *can be* dissolved by the Diocesan Bishop or the Roman Pontiff, as long as the proper criteria and documentation are in place:

- a) a marriage between two non-baptized persons (*Pauline Privilege via Diocesan Bishop*);
- b) a marriage between a baptized person and a non-baptized person (*Petrine Privilege via Roman Pontiff*).
- c) a marriage that has not been consummated (*decree via Roman Pontiff*);

**TYPE 1:
PAULINE PRIVILEGE**

St. Paul, writing to the **Corinthians**, stated (*I Corinthians 7: 12-15*):

"To the rest I say this (I, not the Lord): If any brother has a wife who is not a believer and she is willing to live with him, he must not divorce her. And if a woman has a husband who is not a believer and he is willing to live with her, she must not divorce him. For the unbelieving husband has been sanctified through his wife, and the unbelieving wife has been sanctified through her believing husband. Otherwise your children would be unclean, but as it is, they are holy. But if the unbeliever leaves, let it be so. The brother or the sister is not bound in such circumstances; God has called us to live in peace."

In *verse 15*, Paul wrote that, *"the brother or the sister is not bound"*. Therefore, the previous marriage can be dissolved *"in favorem fidei"* (in favour of the faith) when one of the parties receives valid Christian baptism and desires to enter a subsequent marriage, while the other spouse in the previous marital union remains non-baptized.

The dissolution of a previous marriage does not come about by the granting of permission by the Diocesan Bishop (or local ordinary) to invoke the Pauline Privilege, but rather, the prior marriage is dissolved when the Petitioner (after having received Christian baptism) *expresses his/her consent in the subsequent marriage rite* with his/her intended spouse.

The **Petitioner** refers to the person who, at the time of the first marriage, was non-baptized, but who now seeks to be granted the Pauline Privilege so that, after receiving the Sacrament of Baptism, he/she will be able to contract a marriage in the Catholic Church. The **Respondent** is the other non-baptized person who entered a marriage with the Petitioner, but has since departed from the marriage.




Please see the following link for the pertinent documents related to [PAULINE PRIVILEGE](#)

The following conditions must be met when a Petitioner is petitioning the Diocesan Bishop (or local ordinary) for use of the Pauline Privilege:

- 1) The original marriage was entered into by *two unbaptized* persons (i.e., the Petitioner and the Respondent).
- 2) The Petitioner receives baptism, while the Respondent remains unbaptized.
- 3) The Petitioner was not the exclusive or prevailing culpable cause of the breakup of the conjugal common life with the Respondent.
- 4) Departure of the Unbaptized Spouse (Canon 1143 - §2): The non-baptized party (Respondent) is considered to depart the marriage if: (a) he or she does not wish to cohabit with the baptized party (Petitioner) under any circumstances and/or (b) he or she does not wish to cohabit peacefully with the Petitioner, without affront to the Creator (e.g., void of scandal or violation of Church teaching).

- 5) Interpellations (Canon 1144 - §1, §2): For the baptized party (Petitioner) to contract a new marriage validly, the non-baptized party (Respondent) is to be interrogated as to whether: (a) he or she also wishes to receive baptism; and (b) he or she at least wishes to cohabit peacefully with the baptized party without affront to the Creator. This interrogation must be done after the baptism of the Petitioner. For a grave cause, however, the Diocesan Bishop (or local ordinary) can permit the interrogation to be done before baptism or *can even dispense from the interrogation either before or after baptism provided that it is evident (at least by a summary and extrajudicial process) that the interrogation cannot be done or would be useless.*
- 6) Manner of Making the Interpellations (Canon 1145 - §1): The interrogation is regularly to be done on the authority of the Diocesan Bishop (or local ordinary) of the converted party (Petitioner). The Diocesan Bishop must inform the Respondent that a petition for use of the Pauline Privilege has been submitted by the Petitioner. After having been advised, if the Respondent does not respond within the allocated time frame, his or her silence is considered a negative response (Canon 1144 - §2). Even an interrogation made privately by the converted party (Petitioner) is valid (and indeed licit) if the form prescribed above cannot be observed (Canon 1145 - §3). In either case, the fact that the interrogation was done and its outcome must be established legitimately in the external forum (i.e., written form).
- 7) Right to Remarry (Canon 1146): The baptized party (Petitioner) has the right to contract a new marriage with a Catholic party: (a) if the other party (Respondent) responded negatively to the interrogation or if the interrogation had been omitted legitimately by the Diocesan Bishop; and (b) if the non-baptized party (Respondent), already interrogated or not, at first persevered in peaceful cohabitation without affront to the Creator, but then departed without a just cause, without prejudice to the prescripts of canon 1144 and 1145.
- 8) Possibility of a Mixed Marriage (Canon 1147): For a grave cause, however, the Diocesan Bishop can allow a baptized party (Petitioner) who uses the Pauline Privilege to contract marriage with a non-Catholic party, whether baptized or not baptized; the prescripts of the canons about mixed marriages are also to be observed in this case.

In Summary:

- 1) A^o  B^o (First Marriage: Two Non-Baptized Parties)
- 2) A^o  B^o (A^o departs the First Marriage: separation or civil divorce)
- 3) B^o is Baptized; now becoming B+
- 4) B+ is desirous of marriage in the Catholic Church to C, and makes petition
- 5) A^o is questioned before the new marriage is contracted. If A^o has departed without just cause and the first marriage is irrevocable, B+ is able (barring any impediments) to marry C in the Church: B+  C
- 6) At the moment that this new marriage is contracted via mutually-shared consent, the first marriage between A^o and B^o is dissolved in favour of the faith and the marriage between B+ and C becomes a valid marriage.

NB. If the non-baptism of each party cannot be proven, the case will be processed as a Formal Case via the Vancouver Regional Tribunal. No date or plans for future marriage can be made until the case has been completed and an affirmative decision is communicated by the Tribunal. If the Tribunal grants an affirmative decision and the Petitioner is already in an “attempted marriage” (civil), with his or her present spouse, then the Petitioner’s baptism must have preceded the attempted marriage.

The Process:

- 1) When assisting a Petitioner with the Pauline Privilege process, the following should be emphasized:
 - a) the absolute necessity of providing the name, address, and phone number of the Respondent (i.e., due to his/her legal or canonical right to be part of the process);
 - b) the necessity of naming truly knowledgeable and cooperative Witnesses: people who are knowledgeable about the facts regarding the baptismal status of the Petitioner and the Respondent.
- 2) Required Documentation:
 - a) Petition for Use of the Pauline Privilege
 - b) Other forms in the petition package; also, see the listing on page 4 of the petition for some of the required documentation.
 - c) [Pastoral Letter Requesting the Use of the Pauline Privilege](#) (see “Sample Pastoral Letter Requesting Pauline Privilege” in Priests’ Portal)
 - d) Form 1 for Bride and Groom
 - e) Form 2 for Bride and Groom

- f) Other pertinent marriage documentation, as listed in the Marriage Manual, and as is appropriate depending on the applicable marriage scenario.

**TYPE 2:
PRIVILEGE OF THE FAITH
OR
'PETRINE PRIVILEGE'**

The Vancouver Regional Tribunal, *Privilege of the Faith - Application Package*, gives this introductory explanation for the reasoning behind a petition for this privilege:

“For the good of all concerned: spouses, children, in-laws, society and the Church, *every marriage*, whether between Catholics, Christians of other denominations, or the non-baptized, is *presumed* to be valid and permanently binding for life.

A marriage which involves a non-baptized person, while still presumed to be valid, is not *sacramental* as the Catholic Church understands a sacrament. That is, the *sacrament* of marriage cannot be conferred on one, or by one, who has never been baptized, since the *sacrament* of marriage is reserved for the baptized. And because in marriage “the two become one”, even if one party to the marriage is baptized, the sacrament cannot be only partially conferred on the union. A marriage involving at least one non-baptized person is [therefore, considered] a *natural* marriage [but not a sacramental one].

Once a natural marriage is irrevocably broken, a person can enter a petition asking for the marriage to be declared dissolved as a *privilege*, to *favour* the continued and authentic practice of the Catholic faith. It is a *favour* given only in circumstances where the divorced person wishes to now enter into a new *sacramental* marriage in the Catholic Church.

In a Privilege of the Faith [case], what is being declared is that the natural bonds of marriage, which were made at the time consent was exchanged between the two parties, are dissolved, and the marriage contract is no longer binding on the parties. This type of privilege was given even in biblical times to favour the growth of the Christian faith and the conversion of people – [see 1 Corinthians 7:12-16].”

This process may arise when the original marriage was a non-sacramental (natural) bond between a baptized person (i.e., validly baptized in the Catholic Church or validly baptized in another Christian community) and a non-baptized person. After the required documentation is forwarded by the parish priest to our Chancery Office, and, in turn, forwarded from our Chancery Office to the Vancouver Regional Tribunal, the Tribunal reviews the documentation and the file is sent to Rome for a decision. Only the Holy Father may set aside this union *in favor of the faith* of the Catholic party with whom a new marriage is desired.

Please see the following link for the pertinent documents related to a petition for [PRIVILEGE OF THE FAITH \(PETRINE PRIVILEGE\)](#)

The following conditions must be met when petitioning the Holy Father for the Privilege of the Faith (Petrine Privilege):

- 1) At least one of the spouses was unbaptized during the entire length of the marriage.
- 2) If the non-baptized spouse has received baptism since the marriage ended, it must be proven that the couple has not had conjugal relations with each other since that baptism took place.
- 3) There is no possibility of restoring conjugal life between the Petitioner and the Respondent (former spouse).
- 4) The Petitioner has fulfilled his/her moral and civil obligations toward the first spouse and offspring.
- 5) The Petitioner must not have been the exclusive or prevailing culpable cause of the breakup of the conjugal common life with the Respondent; and, if applicable, the Catholic party with whom the new marriage is to be contracted or validated, did not cause the failure of the marriage.
- 6) The Catholic party is actively practicing the faith and makes a declaration (Form 1A) that he/she is prepared to remove all dangers of defecting from the faith.
- 7) A non-Catholic Petitioner acknowledges, in writing, the freedom of the Catholic party to both practice the Catholic faith and to baptize and educate any children born of the marriage in the Roman Catholic faith.
- 8) If the marriage to be dissolved had been entered into with a dispensation from disparity of cult, the case can be presented for examination only if the Catholic party intends to enter a new marriage with a baptized party.

The above conditions are proven by testimony and documents. The privilege cannot be granted unless the Petitioner intends to enter a new marriage. The Holy Father grants the privilege to allow a second marriage with a specific baptized person.

In Summary:

- 1) B+ \longleftrightarrow A (First Marriage: B+, a baptized Christian, marries A, an unbaptized person.
- 2) The non-baptism of A can be proven.
- 3) B+ \longleftrightarrow A (The marriage between B+ and A ends in civil divorce).
- 4) B+ (baptized party) wants to marry C (baptized party) and practice the Christian faith
- 5) The marriage between B+ and A (as a non-sacramental marriage) may be dissolved by the Holy Father in favour of the faith, and a desired sacramental marriage between B+ and C.

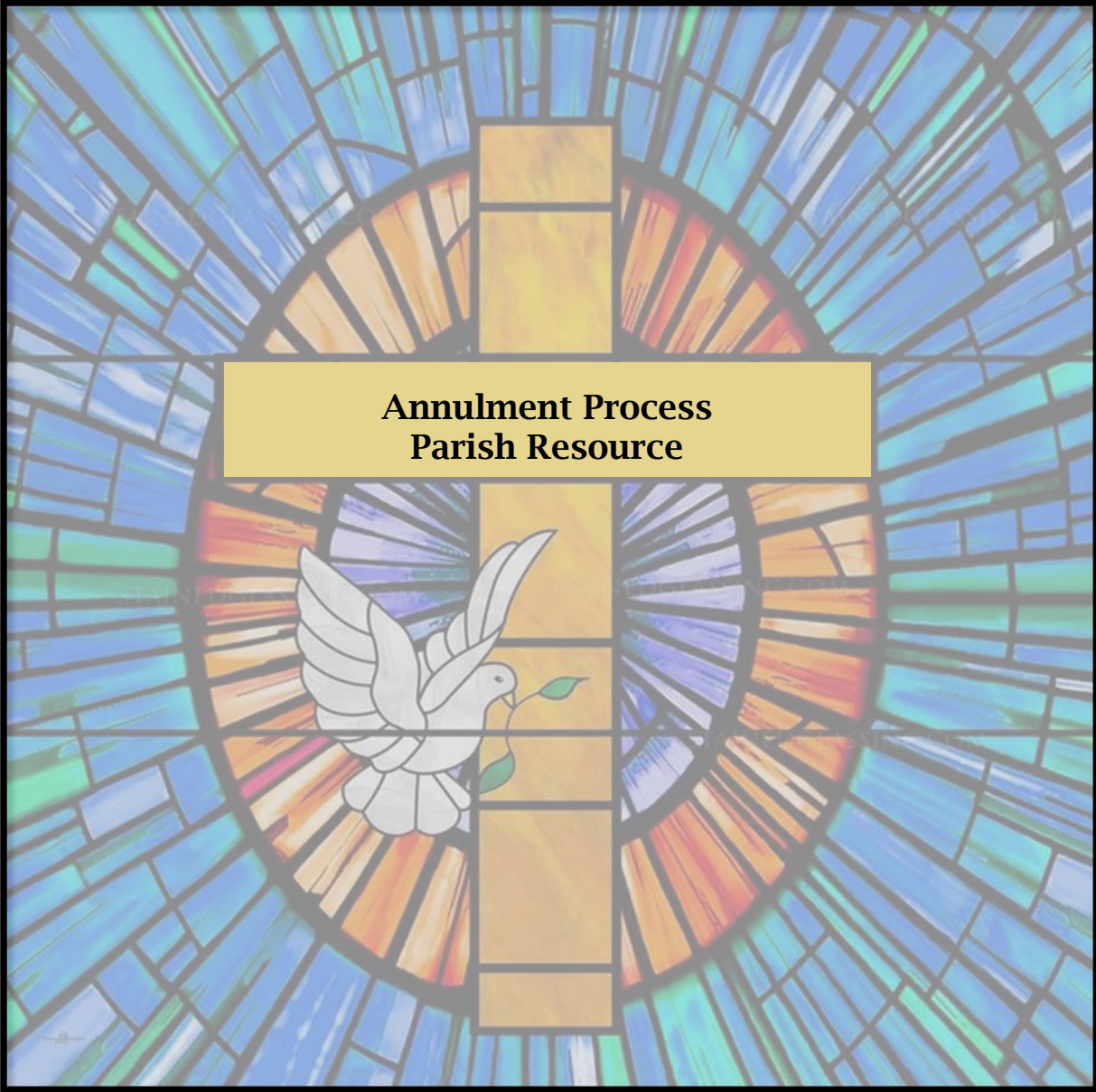
The Process:

- 1) When assisting a Petitioner with the Petrine Privilege process, the following should be emphasized:
 - a) the absolute necessity of providing the name, address, and phone number of the Respondent (i.e., due to his/her legal or canonical right to be part of the process);
 - b) the necessity of naming truly knowledgeable and cooperative Witnesses: the Tribunal will need to be able to determine that *one* person in the marriage was never baptized (i.e., when the marriage was entered and during the entire time of their married life); to aid the process, the names and addresses of Witnesses who can attest to the non-baptism of that person, preferably parents, are needed.
- 2) Completion of the Vancouver Regional Tribunal *Privilege of the Faith – Application Package* (i.e., please see “Sheet #4” for a listing of the required documentation).

**TYPE 3:
NON-CONSUMMATION**

Non-Consummated Dissolution Cases (Canons 1142, 1697-1706) In a Non-Consummation dissolution case, the Petitioner claims that the marriage, although celebrated, was never consummated and, therefore, did not possess the status of absolute indissolubility. The claim is proved by testimony and/or medical examination. If proven, the Pope grants the dissolution of the first marriage, thereby permitting a second. As is the case with the other two dissolution cases (i.e., Pauline Privilege and Petrine Privilege), the first marriage is neither claimed to be, nor declared, invalid.

NOTE: Should a Petitioner present facts indicating a Non-Consummation case, the Tribunal is contacted by the Chancery Office for specific instructions.



**Annulment Process
Parish Resource**

FREQUENTLY ASKED QUESTIONS ABOUT THE 'ANNULMENT' PROCESS

1. What is 'Marriage' as Defined by the Church?

Faithful to the Lord's call, expressed in the Gospels and the Tradition of the Church, the Church sees marriage as a covenant between a man and a woman whereby they establish between themselves a partnership for their whole life. This partnership for life is established in the freely-given consent (i.e., 'vows') of a man and a woman in the marriage rite. This consent is an act of the whole human person and it involves psychological, physical, and spiritual dynamics.

By its very nature, this partnership is ordered to the mutual well-being of the spouses and to the procreation and upbringing of children. The nature of this covenant demands total fidelity on the part of the spouses and establishes an unbreakable bond between them. The Catholic Church teaches that every valid marriage is permanent and that a valid marriage between baptized persons is a sacrament. For the good of all concerned (spouses, children, in-laws, society and the Church) every marriage, whether between Catholics, Christians of other denominations, or non-baptized persons, is presumed to be valid until proven otherwise.

2. What is an "Annulment"?

An "Annulment" (or its formal title, a "Declaration of Nullity") is a judgement from a Catholic Church Tribunal that a marriage was not a valid Christian marriage from the start -- *as the Church defines or understands marriage* (i.e., the Declaration of Nullity has nothing to do with the civil or legalistic dimension of the marriage). Because the Church sees marriage as a call to mutual self-giving for the good of the spouses and the nurturing of children, the question of validity addresses whether the spouses were capable of, and open to, entering into a permanent commitment. If it can be shown that something essential was lacking at the time of the exchange of consent (i.e., the 'vows'), then the Church declares the marriage "null" or invalid; hence, the title, Declaration of *Nullity*. The annulment process can help people come to peace within themselves and with the community of the Church, after a failed marriage ends in divorce.

3. What is the role of the Tribunal?

Marriage courts (or tribunals) are staffed by specially trained and experienced priests, religious and lay persons who see their role as one of a healing ministry. In short, they

give special attention to the words of Pope Pius XI who defined the role of the Tribunal in these words: “to care for the dignity of marriage; to work for the good of the persons.”

In keeping with the spirit of Pope Pius XI’s definition, the Tribunal staff investigates the failed marriage using a judicial process to determine whether or not there are any grounds acceptable in church law for a Declaration of Nullity. The Tribunal works towards this end by diligently protecting the rights of a man and a woman in a specific marriage, as well as the rights of the Church, which have all been charged by Christ to be the guardians of the Sacrament of Matrimony. The goal of the Tribunal then is two-fold: (1) to be "prophetic" (to teach what Jesus taught) and (2) to be “pastoral” (to minister to those people whose marriages have ended in a civil divorce).

Any person (i.e., Christian or non-Christian, Catholic or Protestant) who wishes to enter marriage in the Catholic Church, and who has a former spouse who is living, needs to look at the possibility of a Declaration of Nullity (i.e., either Local Case Process or Formal Case Process) in order to determine that they are free to marry in the Catholic Church. For the Catholic Church, as part of its fundamental teaching on marriage, does not recognize divorce as ending the bond established in marriage.

4. Where do I begin?

Contact your parish priest to set up an appointment to complete a Preliminary Interview. During this interview, the parish priest (or his assigned delegate) will collect information from you to determine what type of process (if any) needs to be followed. If it is determined that a Declaration of Nullity – Formal Case Process is required due to the circumstances of your individual situation, various documents will need to be completed and further information gathered. That documentation would then be forwarded to the Prince George Diocese Chancery Office for processing with the Vancouver Regional Tribunal.

5. What follow up steps are involved?

- Your file of documentation would then be reviewed by the Vancouver Regional Tribunal judges.
- If the judges decide that there is merit to your case being heard, you will be formally interviewed, under oath, by a designated person (i.e., usually your parish priest or the Chancellor or Vice-Chancellor of the Prince George Diocese).

- Your former spouse (i.e., referred to as the Respondent) will be notified about the proceedings and a formal interview will be arranged with him/her, if he/she agrees to participate.
- Witnesses will also be interviewed, and experts may be consulted (e.g., psychologist).
- The gathered testimonies will be reviewed by the Defender of the Bond and the Defender will offer the judges his/her observations. The Defender of the Bond's role, as the title suggests, is to defend the marriage bond (i.e., to present reasons, based on the case documentation, that the original marriage bond should be upheld and considered valid). Your assigned Advocate, in turn, would argue reasons in support of a Declaration of Nullity being granted by the Tribunal judges.
- Three Judges will study the evidence presented and give their decision on the case, either in the Affirmative (i.e., granting the petition for a Declaration of Nullity of the original marriage) or in the Negative (i.e., declining the petition for a Declaration of Nullity of the original marriage, and confirming its ongoing validity). This decision by the tribunal judges is referred to as a *Definitive Sentence in the First Instance*.
- If the Respondent wishes to appeal an Affirmative decision by the judges, the case would be sent to the Canadian Appeal Tribunal in Ottawa for a mandatory examination and a *Definitive Sentence in the Second Instance*. This second sentence is binding. IF a second instance decision is rendered, you and your former spouse would be notified.

6. Why is my former spouse contacted?

Catholic Church law requires us to notify your former spouse (i.e., referred to as the Respondent) of the fact that you are seeking a Declaration of Nullity of your marriage. Your former spouse is offered the opportunity to participate in the proceedings and present his/her own testimony. You are asked to provide us with your former spouse's contact information and address. Failure to do so will only extend the overall processing time.

7. What about Witnesses or Expert Testimonies?

We require from you the names of Witnesses (people knowledgeable about both parties during the courtship and marriage), who can assist the Tribunal in a deeper understanding of you, the Respondent, and your marriage. We ask you to contact these people and to obtain their permission to be called and interviewed. All information received from Witnesses is kept private and confidential at the Tribunal Office (i.e., in

keeping with the Tribunal process, only you, the Respondent, and the Tribunal Staff are able to read the Witness testimonies).

Sometimes experts in the medical/mental health field (e.g., doctors, psychologists and/or professional counsellors) have been consulted before or during a marriage in question. If this is applicable, you may wish to have such experts provide the Tribunal with a written assessment that will be of great value in their study of the marriage. If this is the case, please provide the complete name(s) and address(es) of the professional(s) and complete a *Consent for Release of Information Form*.

8. How long will it take?

The Tribunal attempts its utmost to finish and finalize the proceedings within one year; however, it is not possible to guarantee any length of time due to factors that may be beyond the Tribunal's control – such as difficulty in contacting and obtaining the cooperation of the Respondent or of knowledgeable Witnesses, or other unforeseen circumstances.

9. Should I call the Vancouver Regional Tribunal Office?

Please contact the Vancouver Regional Tribunal Office if you have new evidence to support your case or if you have names of additional witnesses. Also, let them know if you have a change of address and/or phone number. Whenever you call or write the Tribunal, please refer to your protocol case number and the last names under which the case is listed (i.e., the Petitioner's name is always listed first, then the Respondent's).

10. How much will it cost?

The Diocese of Prince George asks that the Petitioner pay a fee of \$2500.00, as that is the amount that our diocese is invoiced by the Vancouver Regional Tribunal when a case has been completed (i.e., see '*Formal Nullity Case Fee*' form). The amount of \$2500.00 only partially defrays the actual operational costs of the Vancouver Regional Tribunal Office with its salaried and professional staff.

If there is financial need, the Diocese of Prince George will subsidize a portion of the cost. Any financial assistance from the Diocese of Prince George will be reviewed on a case-by-case basis. If the Petitioner is in financial need, he/she might also wish to check with his/her parish priest about the possibility of financial aid from the parish.

11. Are there any civil effects to a declaration of nullity?

No. A Declaration of Nullity from the Church has *no civil effects* in Canada. A decree of civil divorce, based on the observance of provincial law, is needed to end the civil recognition of the union. A civil decree of divorce, therefore, declares that the civil contract between the spouses has been terminated as of a certain date.

12. What is the status of a divorced Catholic in the Church?

Catholics who are divorced, and have not entered into another civil union, are encouraged to practice their faith fully, including participating in the Sacramental life of the Church. Merely being separated or divorced does not change one's status in the Church. Divorced Catholics are full members of the Church with all of the same rights as any other member.

Catholics who have divorced and have entered into another union, without a Declaration of Nullity, are encouraged to trust and to find hope in a Spiritual Communion with Christ during the Mass. They are still encouraged to pray at Mass and to practice the other aspects of their faith while a decision from the Tribunal is pending.

13. What about a future marriage in the Catholic Church?

Please note that a date for marriage in the Church cannot be set until a Declaration of Nullity has been actually granted.

If the prior marriage is, indeed, declared null (invalid), discussions about marriage to an intended spouse should be initiated with your parish priest (or the parish priest of the Catholic person whom you intend to marry). The parish priest, in turn, will advise you on arrangements. This will include all diocesan requirements for marriage preparation.

In some cases, a restriction or a condition is attached to the Declaration of Nullity. If this is the case, it is because the Tribunal has identified possible existing or ongoing issues that need to be addressed (e.g., perhaps in counselling) before permission for marriage in the Church is granted. This is to assure that causes which rendered the past marriage invalid will not affect the validity of a future marital union.

GROUNDS FOR NULLITY

A “ground”, or reason, for nullity is based upon the interplay of the intellect (understanding) and the will (intention) *at the moment of consent*.

Below, you will find a list of the principal reasons (“grounds”) for which a marriage can be declared invalid, based on Church law. A Tribunal can investigate one or more of these grounds, on the part of the Petitioner (who is seeking the annulment), the Respondent (the civilly-divorced spouse), or both the Petitioner and Respondent.

Insufficient Use of Reason (Canon 1095, 1°)

To enter a valid marriage, a person must have the degree of reasoning ability sufficient to know and understand what marriage is and what he or she is doing at the time of marriage. Serious conditions, such as profound mental retardation, certain personality disorders or black-out states (caused by alcoholic intoxication, drug use, or seizure disorder), might prevent a person from possessing or using reasoning ability during the marriage ceremony. If one or both spouses lacked the use of reason during the wedding ceremony itself, this ground can be considered.

Possible Evidence of this Ground: 1) grave disturbance of the mind; 2) diagnosed mental insanity; 3) a significant degree of intoxication due to substance abuse at the time one says their vows.

Exploratory Questions Related to this Ground: *Did either you or your former spouse abuse drugs or alcohol to the extent of suffering from blackout periods? If so, did either of you use drugs or alcohol before the wedding ceremony? Were either of you intoxicated, “stoned,” or “high” during the ceremony? Were either you or your former spouse ever diagnosed with a very low intelligence or with a serious learning disability, or serious difficulty with the ability to reason? Were either of you ever diagnosed with a mental disability or a mental illness that caused blackout or delusional episodes? If so, did such an episode occur at the time of the wedding ceremony? Did either you or your former spouse suffer from epilepsy and grand mal seizures? If so, did a seizure occur just before or during the wedding ceremony?*

Grave Lack of Discretion of Judgment (Canon 1095, 2°)

To enter a valid marriage, a person must have use of sound reason and mature judgment. This means that the person is making a prudent and free decision, after careful judgment, to enter marriage with a particular person, and that the decision is not impulsive or without forethought. If one or both spouses either lacked sufficient knowledge of

marriage or failed to exercise mature judgment in choosing to marry, this ground can be considered. Because it requires a grave lack of discretion of judgment, this ground may be difficult to prove.

Possible Evidence of this Ground: 1) significant immaturity/irresponsible behavior on the part of either party; 2) inability to keep employment; 3) “party” mentality; 4) extreme control/domineering of one party over the other; 5) dysfunctional family of origin; 6) bad examples of marriage in parents/grandparents; 7) desire to escape one’s own family; 8) pressure of premarital pregnancy; 9) disregard for warnings of others about marrying the other party; 10) overlooking obvious red flags prior to getting married.

Exploratory Questions Related to this Ground: *Did either you or your former spouse have extremely little or no dating experience before becoming engaged? Were either of you on the “rebound” from a broken engagement or previous marriage when you decided to enter this marriage? Did you see marriage as simply “the next step” without much consideration? Did the two of you date for only a brief time? Was the decision to marry made impulsively, or without much thought? Did either of you make immature and impulsive decisions in other areas of life (career, finances, etc.)? Would you say you really did not know one another well enough to marry when you did? Was your decision to marry based on some pressing issue or circumstance (for example, a pre-marital pregnancy, difficult home situation, peer pressure, escape from another relationship)? Did family or friends express serious concerns about this marriage and did you choose to ignore them?*

Incapacity to Assume the Essential Obligations of Marriage (Canon 1095, 3 °)

To enter a valid marriage, a person must have the psychological ability to take on and to live out the lifetime obligations of marriage. A person cannot consent to something that is beyond their psychological capacity to fulfill. Even if the condition became known or diagnosed only after marriage, if a person was afflicted at the time of marriage with a serious psychological or psychiatric condition that prevented him or her from assuming the obligations of marriage, the marriage was invalid. Proof of the condition must be provided, however, and often the Tribunal will require a current evaluation by a mental health professional. Because the ground requires incapacity and not merely diminished capacity, it may be difficult to prove.

Possible Evidence of this Ground: 1) serious mental condition that has onset prior to the marriage; 2) incurable mental illness that renders the person unable to function in the marriage despite treatment; 3) deeply-rooted homosexual inclinations.

Exploratory Questions Related to this Ground: *Were either you or your former spouse diagnosed with a serious psychological illness? Even without a specific diagnosis, did either of*

you suffer from a serious mental illness at the time of your marriage? Did either of you have any addictions at the time of the wedding (alcohol, drugs, prescription drugs, etc.)? If the answer to any of these questions is yes, did the illness or addiction prevent either of you from living out the commitment you made to each other or to your children? At the time of your marriage, did either of you have any serious sexual disorder, serious questions about your sexual identity, or homosexuality? If so, did this affect the ability to live out the commitment to marriage?

Ignorance of the Societal Nature of Marriage (Canon 1096)

To enter a valid marriage, a person must have some basic knowledge (i.e., not be ignorant) of what marriage is all about. A necessary element of that knowledge is to know that marriage is a permanent partnership between a man and a woman. If a person truly has no knowledge that marriage is such a partnership, because of tragic or extremely dysfunctional circumstances in his or her personal or family background, this ground may apply.

Possible Evidence of this Ground: 1) declaration of the parties; 2) repressive family background; 3) dullness of social development;

Exploratory Questions Related to this Ground: *Did either you or your former spouse come from a family background where there were many divorces, separations, or live-in relationships? Did either of you have the experience of growing up in several households, whether among relatives or foster parents? Did either of you grow up in an institution, such as an orphanage? If so, can you say that there was never a role model for a happy or healthy marriage? Can you say that either you or your former spouse did not know when you married that marriage is a permanent partnership? Were either of you reared in an environment that was extremely sheltered (to an unhealthy degree)? Were there any cultural factors that influenced your knowledge of what marriage was all about? Were either of you surprised or shocked after marriage by what marriage was all about? Did you separate or divorce quickly after discovering what marriage was all about?*

Ignorance of the Sexual Nature of Marriage (Canon 1096, con't)

To enter a valid marriage, a person must have some basic knowledge (i.e., not be ignorant) of what marriage is all about. A necessary element of that knowledge is to know that marriage by its nature involves openness to children by means of sexual cooperation between the spouses. Although such ignorance is not presumed in persons beyond the age of puberty, this ground may be considered if one or both spouses were truly ignorant of this fact.

Possible Evidence of this Ground: 1) horror or repugnance at first attempt of intercourse; 2) grave shyness or even shame about sexual matters; 3) disinterest in sexual intimacy; 4) the party did not give the other person the right to intercourse.

Exploratory Questions Related to this Ground: *Were either you or your former spouse extremely young when you began dating the other? If so, was this dating relationship the only one before marriage? Did either of you come from a family background where there was no discussion at all of sexuality? Did either of you enter marriage with absolutely no understanding of human sexuality and sexual intercourse? Were either of you reared in an environment that was extremely sheltered or sexually repressed (to an unhealthy degree)? Were there any cultural factors that influenced your knowledge of human sexuality and sexual relations? Were either of you surprised or shocked after marriage to learn about sexuality or sexual relations? Did you separate early in the marriage because of an unwillingness to engage in sexual relations?*

Error of Person (Canon 1097, §1)

To enter a valid marriage, one must know the person he or she is marrying. In other words, marital consent is exchanged with a specific man or woman and it is essential to have true knowledge of who that person is. If one spouse made a substantial error in judgment concerning the true identity of the intended spouse, or in other words married the wrong person, this ground could be considered. The error in question is not about details of personality or behavior, but a serious error about the identity of the other spouse. Use of this ground is extremely rare in this country and culture.

Possible Evidence of this Ground: self-evident: the party married an unintended spouse.

Exploratory Questions Related to this Ground: *Was your marriage arranged by someone else? Did you and your spouse agree to marriage through a "mail-order" arrangement or other similar means? Did you meet your former spouse for the first time at the ceremony or shortly after? Was your courtship at a distance? Did you actually spend very little time together, alone, before marriage? Was your intended spouse not the person you thought you were marrying? Did you discover after marriage that the person you married was not, in fact, the person you intended to marry? Did you react with shock or surprise when the error was discovered? Did you separate immediately afterward, or did your marital relationship change immediately afterward?*

Error About a Quality of a Person (Canon 1097, §2)

To enter a valid marriage, one must know the essential qualities of the person he or she is marrying. If, at the time of marriage, one spouse was mistaken about a quality directly and principally intended in the other spouse (almost as a condition for marriage) then this ground could be considered. This ground might apply if you or your former spouse

intended to marry someone who possessed a certain quality (perhaps of a moral, social, physical, religious, psychological, or legal nature) and the primary reason for entering this marriage was the belief that the intended spouse possessed that quality. The intended quality must be of such a magnitude that without it, the person would not have married the other.

Possible Evidence of this Ground: never revealed a certain important quality; concealed infertility; concealed homosexuality; criminal record with consequences to the marriage; concealment of sexual disease; concealment of drug and alcohol addiction.

Exploratory Questions Related to this Ground: *Was there a certain quality or trait that either you or your former spouse were looking for in a prospective husband or wife (for example, a certain social status, marital status, education, a certain profession, religious conviction, freedom from addiction or disease, freedom from an arrest record)? Did you or your former spouse consider that trait so important in a prospective spouse that you would marry only someone who possessed that trait? Would this marriage have been called off if the other person did not possess that quality? When it was learned that you or your former spouse did not possess that quality, did the other spouse react with shock or surprise? Did you separate immediately afterward, or did your marital relationship change immediately afterward?*

Fraud or Deceit (Canon 1098)

A person who enters marriage deceived by fraud, which is perpetrated to obtain the marital consent of the other person, marries invalidly. Fraud is the intentional act of deception. It can be perpetrated by the other spouse or by a third party, but the end result is the same: one of the contracting parties consents because he/she was deceived into doing so. If fraud or deceit took place in order to make marriage happen, this ground can be considered.

Possible Evidence of this Ground: history of being deceitful; special arrangements to avoid detection; concealing infertility; concealed health or mental issues; concealed criminal record.

Exploratory Questions Related to this Ground: *Did you or your former spouse intentionally misrepresent or conceal information necessary for the other person to make a well-informed marital decision? Did someone else (a parent, for example) misrepresent or conceal information necessary for a well-informed marital decision? Was the deception intentionally done in order to get the other person's agreement to marry? If the truth had been known, and the deception not carried out, would the marriage not have occurred? If the deceit was later discovered, did it have an immediate effect on the marriage? Did the separation or divorce occur because of this?*

Error Concerning the Unity of Marriage (Canon 1099)

For marriage to be valid, both spouses must know that absolute faithfulness to one another is part of the nature of marriage. If one or both spouses entered marriage with an erroneous belief that infidelity, polygamy, or polyandry was possible, this ground could be considered. This belief must have been firmly held, or in other words, marriage could not be conceived of in any other way than allowing for infidelity or multiple spouses or sexual partners. What invalidates the marriage is the error, present from the beginning, that marriage does not include the need for sexual fidelity. Adultery itself is not a ground for nullity.

Possible Evidence of this Ground: if an error about the Church's teachings determines one's will to enter the marriage, the consent was invalid (i.e. one believes that a marriage is dissolved when their spouse is unfaithful). If a person leaves the marriage upon this occurring, this error regarding the permanent nature of marriage can be said to have determined their will. The error must determine one's action. Simply having an erroneous belief about marriage and not acting on it is not enough.

Exploratory Questions Related to this Ground: *At the time of marriage, did either you or your former spouse believe that it was acceptable to have other sexual partners after marriage? Was there anything in the family background to explain the belief that marriage was not an exclusive (totally faithful) relationship? Were you or your former spouse reared in a home environment where there was sexual infidelity, or cohabitation, or several sexual partners? Did either family consider infidelity or living together acceptable or desirable? Had either you or your former spouse been unfaithful in previous relationships? Were either of you reared in a home in which no religion was practiced, or a religion that accepted polygamy? At the time you married, did you or your former spouse accept the notion of an "open" marriage? Did either of you accept the idea of multiple sexual partners, or "exchanging" partners with others? Were either of you unfaithful during your courtship or engagement? Did either of you consider cohabitation or living together to be acceptable or desirable? Were either or both of you sexually unfaithful during the marriage?*

Error Concerning the Indissolubility of Marriage (Canon 1099, con't)

For marriage to be valid, both spouses must agree to the absolute permanence of marriage. If one or both spouses entered marriage with an erroneous belief that marriage may be a temporary arrangement, that divorce was always an option, or that remarriage was always a possibility, this ground could be considered. The error could include the notion that marriage lasts only as long as the spouses decide, or only as long as they remain in love, or that the state has the authority to dissolve a marriage through divorce. This belief must have been firmly held, or in other words, marriage could not be

conceived of in any other way than allowing for the possibility of ending or dissolving the marriage.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Were either you or your former spouse reared in a home with no religious practice? Were either of you from a family background in which there were multiple instances of divorce and remarriage? Did either of your families consider divorce and remarriage acceptable or desirable? Did either you or your former spouse believe that your marriage would not be permanent? Did you sign a pre-nuptial agreement because you thought the marriage might not be permanent? Did either of you accept the idea of a “trial” marriage, with the understanding that you could divorce if it did not work out? At the time you entered this marriage, would you have said that you could divorce and remarry for a particular reason (for example, physical abuse, adultery, unhappiness, illness)? If you and your former spouse had been told that divorce and remarriage would be impossible for any reason, would either of you have backed out of the marriage? Did either of you clearly believe that it was your right to divorce or remarry at will?*

Error Concerning the Sacramental Dignity of Marriage (Canon 1099, con't)

A person may enter marriage validly when he or she is in simple error (holding a false opinion) about the sacred character or sacramental nature of marriage between two baptized people. However, if one or both spouses entered marriage with an erroneous belief that marriage is simply a civil or secular matter and that it has no relation to the sacred for the baptized, this ground may be considered. This belief must have been firmly held, or in other words, marriage could not be conceived of in any other way than as civil or secular in nature.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Did either you or your former spouse come from a family environment in which there was no practice of religion? Did either of you come from a religious background which taught clearly that marriage is not a sacrament or not a sacred bond? Did either of you firmly believe that marriage was merely a civil contract, having only civil effects, with no relationship to religion or the church? Were you married by a judge or civil official, because you did not want a church wedding? Did either or both of you intend to enter only a civil contract of marriage, with no thought of religious overtones? If you answered yes to any of the above questions, would that spouse have called off the marriage if the other person insisted on a church*

wedding, or insisted that marriage was a religious matter? Did either of you believe so strongly that marriage was only secular in nature that you could never envision marriage as having some religious or sacred element to it? Did either of you have a hatred or aversion toward religion?

Total Simulation & Partial Simulation of Marriage (Canon 1101)

To simulate consent means to say one thing externally, but to intend something quite different internally. If a party enters into marriage for reasons other than truly establishing a marital union and this is done intentionally, the marriage will then be invalid either on the basis of “Total Simulation” or “Partial Simulation.”

c) Total Simulation:

“Total Simulation” refers to intentionally withholding consent to the marriage itself. This ground may be considered if one or both spouses “pretended” to marry, and not intend to enter a genuine, lasting marriage. For example, if a party enters into marriage simply to establish legal residence in Canada and does not intend to enter into an actual marriage with the other party, this would be “Total Simulation.” In cases of total simulation, the Tribunal will attempt to discover the motivations for such an action. Why did the person exclude marriage itself? Witness testimony or other means of establishing the intention of the party will be essential in order to find in the affirmative on this ground.

Possible Evidence for this Ground: 1) married to obtain legal status in the country; 2) to legitimize a child; 3) refusing to give a new consent again at the convalidation of an invalid marriage and thought the Church ceremony was only a blessing and not a real marriage.

Exploratory Questions Related to this Ground: *Was this an arranged marriage, that is, you and your former spouse were “told” to marry by someone else such as your parents? Did you and your former spouse agree to marry for some reason other than being in love and wanting to marry one another? Was there some reason you decided to go through a wedding ceremony without being in love (for example, to obtain citizenship, to escape your childhood home, or for insurance, welfare, or financial purposes)? If you answered yes to any of these questions, did you separate shortly after marriage, or as soon as other conditions were met?*

d) Partial Simulation:

“Partial Simulation” refers to withholding consent to an essential element or property of marriage; examples of Partial Simulation are listed below:

vi) Intention Against the Good of Permanence (c. 1101, § 2): A valid marriage includes three essential “goods” — children, fidelity and permanence. If one or both spouses entered marriage with the intention to exclude the lifelong permanence of marriage, this ground can be considered. Marriage, by its very nature, is a permanent partnership which cannot be broken or dissolved by the spouses themselves. The marriage is invalid if one enters it with the intention to make the marriage only temporary, to keep divorce and remarriage as an option, or reserving the right to decide at any time to end the marriage.

Possible Evidence of this Ground: 1) a party reserved the right to leave the marriage if the marriage became unhappy; 2) if one party was unfaithful; 3) if one party failed to live up to the other’s expectations, etc.

Exploratory Questions Related to this Ground: *Did either you or your former spouse believe that you had the right to end the marriage at any time and possibly remarry someone else? Did either of you intend a “trial marriage?” Did either of you come from a religious background which taught that divorce was acceptable, perhaps under certain circumstances (for example, adultery, physical abuse, unhappiness, illness)? Were either of you divorced and remarried several times before entering this marriage? If so, did that person view marital commitment in such a way that it necessarily included divorce as a possibility? Was divorce included as an option for dealing with an unhappy marriage? Was there a history of divorce in either your family or your former spouse’s, or among friends? Did you sign a pre-nuptial agreement because you intended divorce as a possible option? Do you think the marriage would have been called off if you and your former spouse had been told that the marriage was absolutely indissoluble, and that divorce was never possible?*

vii) Intention Against the Good of Fidelity (Canon 1101, § 2): As noted above, a valid marriage includes three essential “goods”—permanence, fidelity, and children. If one or both spouses entered marriage with the intention to exclude absolute fidelity, this ground can be considered. Fidelity or exclusivity in marriage means to have only one’s intended spouse as a sexual partner for life. Absolute fidelity prohibits openness to any other sexual relationships. When one enters

marriage with the intention of excluding such absolute fidelity, (in other words remaining open to the possibility or thinking that they may choose whether to have other sexual partners), then the marriage is invalid. It is important to note that what invalidates the marriage is the intention present from the beginning, to permit infidelity – not actual infidelity. Adultery itself is not a ground of nullity.

Possible Evidence of this Ground: 1) one has habitually displayed infidelity in their relationships; 2) a belief in “open marriage”; 3) belief that pornography is morally acceptable; 4) a party confesses to the simulation.

Exploratory Questions Related to this Ground: *Did either you or your former spouse believe you had the right to determine if you would have other sexual partners during this marriage? If the answer is yes, did you intend to claim this right? Did either or both of you intend to have an “open” marriage which would permit other sexual partners? Did either of you come from a family background where there were many sexual partners, or live-in companions, or were your parents sexually unfaithful during their marriage? Was sexual infidelity acceptable to either you or your former spouse? Did either of you view marriage in such a way that it would permit sexual infidelity or multiple sexual partners? Was either of you sexually unfaithful to the other during your engagement? Were you sexually active before marriage? Did you cohabit or live together with your former spouse before marrying? Did either of you cohabit or live with another person before this marriage? Was there actual infidelity or adultery during your marriage?*

viii) Condition Against the Good of Children (Canon 1101, § 2):

To enter a valid marriage, a person must place no conditions or limits on the essential elements of marriage, which includes a radical openness to children. This ground can be considered if one or both the spouses placed a condition on child-bearing, such as a limit on the number of children to be born in the marriage. The condition must be present from the beginning of the marriage, and measures must have been taken to ensure that the condition was, in fact, met.

Possible Evidence of this Ground: 1) the consistent use of contraceptives throughout the marriage in order to avoid children; 2) vasectomy or getting tubes tied prior to consent with the intention of not having children during the marriage.

Exploratory Questions Related to this Ground: *Did either you or your former spouse express any condition or intention to limit the number of children in the marriage (for instance, “I will marry you on the condition that we only have one child”)? Was this an absolute intention or condition, and not just a vague thought about the future? Was this a firm intention or condition, and not negotiable or changeable? Were there means taken during the marriage to guarantee the fulfillment of this condition or limit (such as contraceptive, sterilization, or abortion)? Was the condition actually fulfilled?*

- ix) Intention Against the Good of the Spouse (Canon 1101, § 2):** a situation whereby, at the time of the decision to marry, you and/or your ex-spouse married with the intention (either explicitly or implicitly) not to form a mutually-giving union. This may include infidelity, abuse, neglect, nonsupport, irresponsibility and/or a lack of mutual love and respect.

Possible Evidence of this Ground: 1) severely selfish behavior on the part of one party at the expense of another; 2) one party is often absent from the marital home; 3) physical and/or emotional abuse of one’s spouse.

Exploratory Questions Related to this Ground: the Tribunal will investigate for possible evidence for the above ground.

- x) Intention Against Sacramentality (Canon 1101, § 2):** a situation whereby one or both parties make it known that he/she does not believe marriage to possess sacramental dignity, and/or expresses hostility towards the Catholic faith and its teachings.

Possible Evidence of this Ground: 1) hostility towards Catholic teaching; 2) expressed skepticism regarding Catholic teachings regarding marriage; 3) failure to take marriage preparation seriously; 4) being raised in a faith that explicitly rejects sacramental theology or at least the idea of marriage as sacrament.

Exploratory Questions Related to this Ground: the Tribunal will investigate for possible evidence for the above ground.

Future Condition (Canon 1102, §1)

To enter a valid marriage, a person must have no reservation or future condition. The spouses are required to give total and free consent to marry one another. If a person enters marriage while waiting to see if in the future a certain condition will be fulfilled or not (e.g., that one's spouse will change religions in the future, or enter a certain profession, or will bear a child) the marriage was invalid. Often a condition is attached because of doubts about the intended spouse. This ground can be considered if one or both of the spouses entered marriage with an expressed condition based on some event in the future.

Possible Evidence of this Ground: the mentality that if a certain condition cannot happen, then the marriage is not wanted, i.e. my spouse must be or become a millionaire or a doctor, etc.; prenuptial agreement on a future condition; circumstance agreed upon prior to the marriage that were not fulfilled and one party left the marriage; conditions are often placed because of some doubt of the suitability of the person.

Exploratory Questions Related to this Ground: *Did either you or your former spouse attach any condition concerning the future to your marriage (for instance, I will marry you on the condition that: ...we will always live in this area,.. you will complete your medical degree, ...you will become Catholic, ...we will have a child together"?)? Did you sign a pre-nuptial agreement, thinking that divorce was an option if a future condition were not met? If you answered yes to either question, would the marriage have been called off if the other spouse did not agree to the condition? Did you marry with doubts about your former spouse which caused you to attach a condition to the marriage working out in the future? Did the condition remain unfulfilled, and if so, did this lead to the final separation or divorce?*

Past Condition (Canon 1102, §2)

To enter a valid marriage, a person must give free and unconditional consent. A past condition concerns the existence or non-existence of a fact, typically concerning the spouse's past. Placing such a past condition on the marriage raises serious questions, and it invalidates marriage when it is proven that the condition, upon which the marriage decision depended, was not fulfilled at the time of marriage. Often, a condition is placed because of doubts concerning the intended spouse. This ground may be considered when one or both spouses entered the marriage with an expressed condition based on something from the past.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Did either you or your former spouse attach any condition concerning the past to your marriage (for instance, "I will marry you on the condition that: ...you were never married before, ...you have finished college, ...you were never*

in jail, ...you never abused drugs before")? Did you sign a pre-nuptial agreement or any other document regarding a past condition? Would the marriage have been called off if the condition weren't fulfilled? Did you marry with any doubts about your former spouse that caused you to place a condition? Did the condition remain unfulfilled, and if so, was this a reason for the separation?

Present Condition (Canon 1102, §2)

To enter a valid marriage, a person must give free and unconditional consent. A present condition concerns the existence or non-existence of a fact or circumstance in the present time (e.g., a medical condition, career, a character or trait). Often, a condition is placed because of doubts concerning the intended spouse. Placing such a condition on marriage raises serious questions, and it invalidates marriage when it is proven that the condition, upon which the marriage decision depended, was not fulfilled at the time the marriage was entered. This ground may be considered when one or both spouses entered the marriage with an expressed condition based on something present or absent at the time of the wedding.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Did either you or your former spouse attach any condition concerning the present to your marriage (for example, I will marry you on the condition that: ...you do not have a sexually-transmitted disease, ...you are the father/mother of my child, ...you are virgin, ...you do not abused drugs or alcohol, ...you are free of debt")? Did you sign a pre-nuptial agreement or any other document regarding this condition for marriage? Did you marry with doubts about your former spouse that caused you to place a condition? Would the marriage have been called off is the condition had been discovered to be unmet or false? Did the condition remain unfulfilled, and if so, was this a reason for the separation or divorce?*

Force or Fear (Canon 1103)

A person must freely choose to enter marriage or the marriage is invalid. Force is a grave threat from outside the person, and may be inflicted intentionally or unintentionally, even by a well-meaning person. Fear is the internal result of the external force. It must be both grave and compelling, so that the person chooses to marry to escape from the force and fear. This ground may be considered if one or both spouses entered marriage in order to be free of some external force or some internal fear which was related to the marriage decision. The choice, then, was not so much to enter marriage, but to be free of the external force or the internal fear of the moment.

Possible Evidence of this Ground: threats of harm and the only way out was to marry; compulsion; retaliation; aversion of at least one of the parties to the marriage; strong ethnic or social mores; reverential fear of a family member.

Exploratory Questions Related to this Ground: *Were either you or your former spouse force or pressured in any way to enter this marriage? Was the marriage someone else's idea, and not yours or your former spouse's? Did either of you feel that you had no real choice whether to marry the other? Were either you or your former spouse deeply afraid that NOT marrying would bring about a serious harm or threat? Was there, in fact, a threat in not marrying? Was there someone or something threatening harm or punishment if you did not marry one another? (Force or threats could come from parents, family, employer, church, cultural expectations, etc.)*

Reverential Fear (Canon 1103, con't)

The choice to enter marriage must be made knowingly and freely, or the marriage is invalid. If one or both of the spouses chose to enter marriage principally because of a grave fear of displeasing a person who was an important authority figure, this ground could be used. As in the ground above, reverential fear is an internal emotion which arises from some external force. The external force may have been a strong suggestion (or a command) to enter marriage, or an expression of disapproval over an alternative to marriage. Acting under reverential fear, then, one chooses to marry because failure to do so would greatly displease a person or ideology which is subjectively important.

Possible Evidence of this Ground: see explanation above

Exploratory Questions Related to this Ground: *Were either you or your former spouse forced or pressured to enter this marriage by someone important in your life (for example, parents, clergy, relatives, a teacher)? If yes, was the marriage this person's idea and not yours or your former spouse's? Was someone making marriage a condition for something else (for instance, an inheritance, a job, or baptism of your child)? At the time of the marriage, were either of you dependent on parents or others to make major decisions, and if so was the marriage really decided by parents or another significant person? Was this marriage arranged by your parents or relatives, and not your choice? Do you think the marriage would not have occurred if someone important to either of you had not insisted on marriage? Did either of you actually want to call off the marriage, but felt pressured to go through with it anyway (for example, by a parent saying, "All the arrangements are made and I insist that you go through with your plans")?*

Invalid Convalidation

When a Catholic person or couple seeks to have an invalid marriage recognized by the Church, it is accomplished only through a new marriage within the Church. Each party

must make a totally new decision and a new act of consent. They must understand that they are beginning their sacramental marriage, not “blessing” the existing invalid marriage. This ground applies if one or both spouses were Catholic, first entered an invalid marriage not recognized by the Church, and later had that marriage convalidated in the Catholic Church. This ground can be considered if the convalidation was not done freely and knowingly, or if the spouses did not intend to enter a new sacramental marriage at the time, but saw the convalidation merely as a continuation of the existing invalid marriage.

Possible Evidence of this Ground: see above description to determine possible evidence.

Exploratory Questions Related to this Ground: *At the time you married your former spouse, were either of you Catholic? Did the marriage first take place “outside the Catholic Church,” that is, not according to the laws of the Church? If so, was it later convalidated or “blessed” in the Catholic Church? Was there a specific reason for the marriage to be validated (for example, the baptism of a child, illness of a family member, etc.)? Were there serious marital problems before the convalidation occurred, and if so, did either you or your former spouse believe that the validation or “blessing,” would help solve those problems? When the marriage was validated or “blessed,” did you or your former spouse believe that it was simply a type of “renewal” of your earlier marriage vows? Did either of you think that the validation was simply a ceremony to go through, and not a new commitment to marriage? Did either of you think that the civil marriage was your “real” marriage, and the validation was just a formality? Did you continue to celebrate your anniversary on the date of your original marriage outside of the church?*

Index

- C**
cost, 19, - 5 -
- D**
Declaration of Nullity, ii, 5, 6
dignity of marriage, i, 6, 16, - 3 -
- F**
Formal Case, ii, 6, 13, 17, 43, - 3 -
- I**
Introduction, i
- L**
Lack of Form, ii, 3
length of time, 10, 19, - 5 -
Local Case Process, ii, 3, 17, - 3 -
- P**
Pauline Privilege, ii
- Petrine Privilege*, ii
Preliminary Interview Form, 6, 9
- T**
Teaching on Marriage, i
Tribunal, ii, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
16, 17, 18, 19, 20, 22, 23, 29, 32, 33, 43,
46, 48, 50, - 2 -, - 3 -, - 4 -, - 5 -, - 6 -, - 7 -
, - 8 -, - 14 -, - 17 -
TYPES OF DISSOLUTION, iii
- V**
valid marriage, i, ii, 5, 6, 13, 16, 18, 22,
23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34,
41, 42, 43, 46, - 2 -, - 4 -, - 7 -, - 8 -, - 9 -,
- 10 -, - 12 -, - 15 -, - 16 -, - 18 -, - 19 -
- W**
What is 'Marriage', 16, - 2 -
What is an "Annulment", 16, - 2 -

