

Diocese of San Bernardino **Office of Canonical Services**

Dear Friends:

The intimacy found only in marriage can bring with it the greatest of joys and the saddest of sorrows. A marriage of many years includes so many happy memories and, sometimes, unfortunately, the greatest of heartbreaks. And even though according to God's original plan marriage is indissoluble, and even though spouses consent to it hoping for a long and loving relationship, the truth is that some marriages end in divorce. Although there may be good reason for it, there is still a sadness when dreams do not come true and when an intimate friendship comes to an end.

For those who wish to marry again in the Catholic Church, an annulment is a necessary first step. Although it is painful and sorrowful to remember the details of a past marriage and subsequent divorce when one applies for an annulment, the hope is an annulment helps in the process of healing, forgiving, learning, and moving forward in life, faith and family.

The purpose of this instruction is to assure you of the Office of Canonical Service's desire to assist you in the investigation of the validity of your previous marriage. Validity is an expression used in legal systems. Something is considered valid (that is, legally binding) when the minimal conditions required by the legal system are present. The Catholic Church has its own legal system called canon law. Among many other things, canon law describes what the Church considers necessary to create a valid marriage.

In canon law marriage is presumed valid when required conditions have been met. The Tribunal, a part of the Office of Canonical Services in this Diocese, becomes involved in its analysis of the validity of a given marriage when one of the spouses contests that validity by means of a Petition for an annulment. A marriage is considered invalid if the consent of the parties is actually less than effective to create a marriage. There are many grounds for invalidity which must be considered by the judges in light of the facts of your specific case. The judges will determine which grounds best suit the facts in your petition.

You also need to know a little about the functioning of the Office of Canonical Services and Tribunal staff. The following are several points of which you should be aware:

- 1) The time involved in reaching a decision in annulment cases varies. It greatly depends on the following: a) how completely you fill out the facts section of the petition (every question is important); b) how thorough and detailed the narrative part of your petition is written; c) how quickly the evidence is gathered from your former spouse and witnesses as well as your diligence in pursuit of any evidence requested of you (most cases are delayed because witnesses have not responded well); and d) how well the facts of the case demonstrate nullity (not every marriage is null). However, even if you, your ex-spouse and your witnesses have done their part, on average, a case takes about eighteen months from the time it reaches the Office of Canonical Services because there are many other cases.
- 2) You must appoint an Advocate. An Advocate is a person experienced in handling petitions for annulment. Ordinarily this will be your Pastor or a deacon or qualified lay person delegated to fulfill this task in your parish. Your Advocate will help determine the possible grounds for nullity before you complete your Preliminary Questionnaire. In that way your responses can address the specific issues involved in the proposed grounds. The Tribunal will ultimately determine the correct canonical grounds based on the facts you provide.

- 3) Your former spouse must be notified of the Petition for Annulment. He or she is, as the Respondent in the case, entitled to the same rights which are extended to you in the investigation of the possible nullity of your marriage. Your former spouse has the right to know the grounds on which the case is being pursued, to object to a finding of nullity, to appoint an Advocate, to know who your witnesses are, to designate his or her witnesses and to review the testimony of witnesses.
- 4) The evidence on which you are basing your request for an annulment must be corroborated and substantiated by the testimony of witnesses or by other physical evidence—documents. Three or four good witnesses are necessary for each case. A good witness is one who knew you and your former spouse before and/or during the marriage, particularly from the beginning. A good witness is one who is willing to provide answers to questionnaires or telephone inquiries relevant to the issues of your particular case. A good witness is one who will reply to questionnaires promptly and not delay the processing of your case. A good witness is one who has first-hand knowledge of the facts leading to the failure of the marriage. Naming a person a witness who can only offer speculation about the failure of the marriage is counterproductive to your case. Only the Tribunal staff, the Petitioner and the Respondent have a right to review, at the Tribunal, the evidence of the witnesses.
- 5) Experts are used for opinions in some cases. Typically, such witnesses are doctors, psychologists or counselors. Such professionals require a release from confidentiality to discuss your case or supply a report. An authorization for the copying of records may also be needed.
- 6) After the evidence has been gathered and before the case will be completed you may be contacted to be interviewed by a member of the staff of the Office of Canonical Services, in some cases by one of the Judges. An interview of this type may include a deposition under oath which will be recorded for the review of the judges. Please respond promptly to any request from our office for more information.
- 7) If an affirmative decision is not possible, under the facts of the case as presented, you will be notified. A negative decision means the judges were not morally certain, beyond a shadow of a doubt, that the consent of either party was invalid. Often a negative decision is the result of not being able to speak with the respondent. Sometimes it comes from the witnesses knowing nothing about the marriage and being unable to corroborate important points. And other times the facts surrounding the marriage do not indicate nullity; some marriages are valid and cannot be annulled.
- 8) If an affirmative decision is given in your case, that means the marriage was declared null, that is, it is not legally binding because the consent exchanged at the time of the wedding was not effective, and you and your former spouse are free to marry. If a negative decision is given in your case, that means the marriage was declared valid, and you and your former spouse are not free to marry.
- 9) There is no fee for the processing of any annulment case, neither to the Diocese of San Bernardino nor to your parish. No matter the final decision in your case, the annulment process can be healing and grace-filled, and it is often an opportunity to find peace and forgiveness – with God, with a former spouse, with the church, and with yourself. God’s mercy is freely given and without limit, and hopefully you will encounter healing and forgiveness in this process. However, although there is no fee, no one is bereft of God’s gifts and blessings, a percentage of which are to be shared with your Christian community. As a

member of your church community, you should be regularly, cheerfully, and prayerfully tithing to your church. Forgiveness and reconciliation restore our familial relationship with God and the church, and the financial support of our family is an essential part of sacrificing for and belonging to our family. Ask your Parish Priest or Advocate how you can register in your parish and financially support the mission of the Church. Whether or not you donate or tithing to your parish, money is neither an obstacle nor an excuse for not beginning an annulment; there is no fee for an annulment.

Attached herewith you will find the Annulment Petition and the Preliminary Questionnaire. If you do not understand any aspect of this information please ask your Advocate for clarification. Legal matters and legal language are rarely easy to understand. Complete and accurate responses to all of questions 1 – 13 of the Preliminary Questionnaire (page 1 and the top of page 2) will greatly reduce the likelihood of delay in your case and help us determine how best to move your case along.

The many questions in sections A – J should NOT be answered individually. Rather, they serve to jog your memory. Read all the questions in a certain section first, say a prayer, and then type a one or two page narrative that addresses the questions – briefly, if not relevant to your marriage; in greater depth if relevant for understanding you, your ex-spouse, your decision to marry and the problems in the marriage. Be succinct, yet detailed. Answer one section a day if that is all you can do at one sitting. In general your narrative need not be more than ten pages. Once typed, share it with your Advocate who may ask you to elaborate on certain areas. This is the most important part of the petition, the details of which should demonstrate why the consent given by you or the respondent was invalid. This part must be well done!

Finally, we do realize that this is not an easy or pleasant endeavor. But it can be emotionally healing and spiritually beneficial for you. Understanding and dealing with the past is always a good way of preparing for the future, especially when it comes to marriage. May God accompany and guide you through this process.

Sincerely yours in Christ,

The Office of Canonical Services

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Office website – <https://canonicalservices.wixsite.com/canonicalservices>

PETITIONER’S DECLARATION AND AGREEMENT

By initialing below, I acknowledge and agree to the following with regard to my petition for a declaration of nullity:

_____ First: there is no guarantee that the Judges will reach an affirmative decision, that is, a declaration in favor of nullity, in my case.

_____ Second: that no definite date can be given for completion of the Tribunal process.

_____ Third: if the Tribunal for the Diocese of San Bernardino issues an affirmative decision in my case, this decision has no effect until the time for an appeal to the Court of Second Instance has expired, or until – after an appeal – the Court of Second Instance issues a second affirmative decision.

_____ Fourth: that no **final** arrangements can be made and no **definitive** date can be scheduled for a future Catholic marriage or convalidation until a final decree of an affirmative decision has been issued.

_____ Fifth: if I am in the RCIA, no assurance can be given that my case will be completed in time for reception of the Sacraments of Initiation at the upcoming Easter liturgy.

_____ Sixth: if the circumstances causing the invalidity of the marriage so indicate, the Tribunal may require that I seek professional counseling before any subsequent marriage in the Catholic Church. All expenses in connection with such therapy or counseling are my responsibility.

_____ Seventh: I understand that information presented to the Tribunal is normally confidential; however, pursuant to California Penal Code Sections 11164-11174.3 and the Policies of the Diocese of San Bernardino, all reports of abuse or neglect of children as described in the above code will be reported to the proper authorities.

Therefore, I hereby acknowledge that I have read, understand and agree to the above declarations.

Signature of Petitioner

Signature of Advocate

Date

Parish/City

Petition for a Declaration of Nullity and Preliminary Questionnaire

1. I, _____, Petitioner herein, request that the Tribunal of the Diocese of San Bernardino declare the marriage between my former spouse and myself to be invalid. In support of this request, I submit the following information concerning my former spouse, the marriage, its termination and myself.

2. Concerning Myself: (Indicate maiden name if appropriate): _____

Current Name: _____ Religion at time of marriage: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (Home) _____ (Work) _____

E-mail: _____ Cell: _____

Date of Birth: _____ Occupation: _____

Church of Baptism: _____ Date: _____

City and State: _____ Denomination: _____

3. Concerning Respondent, my former spouse: (Maiden name if appropriate): _____

Current Name: _____ Religion at time of marriage: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (Home) _____ (Work) _____

E-mail: _____ Cell: _____

Date of Birth: _____ Occupation: _____

Church of Baptism: _____ Date: _____

City and State: _____ Denomination: _____

4. The date and place (the church, city, and state) of marriage: _____

5. Was this marriage ever **convalidated/blessed** in the Catholic Church? Yes _____ No _____

If yes, Place: _____ Date: _____

6. The date, county and state of your final decree or judgment of divorce or dissolution: _____

7. How old were you and your former spouse at the time of your wedding? Myself: _____ My Former Spouse: _____

8. What was the month and year of your final separation? _____

9. How many times have you been married, whether in a civil court, religious or wedding chapel ceremony? _____

10. Are you currently in RCIA? Yes _____ No _____

11. Was your case ever submitted to any other Ecclesiastical Tribunal? Yes _____ No _____ If yes, state the date and location _____

12. How many children were born to the Petitioner and the Respondent? _____

13. Please list the names and date of birth of each child born to the Petitioner and Respondent, if any:

(If more space is needed please use the reverse side or add a page)

ANSWER THE FOLLOWING QUESTIONS ON A SEPARATE PIECE OF PAPER!

NOTE: Use a computer to complete this portion of the Petition, and save the file! The terms former-spouse and Respondent are interchangeable in the following questions.

A. Basis for Petition: Please explain what, in your opinion, was the reason(s) why the marriage with the Respondent in this case failed?

B. Pre-Courtship, Petitioner (Concerning your life from birth to your first date with the Respondent): Please give us some background information relating to your growing-up years. Cover as many of the following points as possible. Please give factual examples. Provide dates or a time frame where possible.

- B1. The character of your parents, their relationship with each other, with you and other children in the family.
- B2. Describe any tensions, difficulties or stresses present in the family while you were growing up.
- B3. To what extent did your childhood and adolescence prepare you well or poorly for your own adult life and marriage?
- B4. What is your educational background? What kind of student were you?
- B5. What is your employment history?
- B6. What was your history of dating before meeting your spouse? Had you ever been engaged to another person?
- B7. Was the marriage in question here your first marriage? If not, please provide information on the identity of all prior spouses, the inclusive dates of the marriage and how it ended—divorce, death, or annulment.
- B8. Describe any history of drug or alcohol abuse, gambling or other addictions.
- B9. Describe any history of criminal activity, arrests or imprisonment.
- B10. Describe any history of mental illness, serious emotional disturbances, or psychological problems. Include the nature of the illness/problem and the dates involved. If treatment was provided, please identify any doctor or therapist and list his/her address and telephone number.

C. Pre-Courtship, Respondent (Concerning the Respondent's life from birth to his or her first date with you): Please give us some background information relating to the Respondent's growing-up years. Cover as many of the following points as possible. Please give factual examples. Provide dates or a time frame where possible.

- C1. The character of the Respondent's parents, their relationship with each other, the Respondent and other children in the family.
- C2. Describe any tensions, difficulties or stresses present in the family while the Respondent was growing up.
- C3. To what extent did the Respondent's childhood and adolescence prepare him/her well or poorly for his/her own adult life and marriage?
- C4. What is the Respondent's educational background? What kind of student was he/she?
- C5. What is the Respondent's employment history?
- C6. What was Respondent's history of dating before meeting you? Had he/she ever been engaged to another person?
- C7. Was the marriage in question here his/her first marriage? If not, please provide information on the identity of all prior spouses, the inclusive dates of the marriage and how it ended—divorce, death, annulment.
- C8. Describe any history of drug or alcohol abuse, gambling or other addictions.
- C9. Describe any history of criminal activity, arrests or imprisonment.
- C10. Describe any history of mental illness, serious emotional disturbances, or psychological problems. Include the nature of the illness/problem and the dates involved. If treatment was provided, please identify any doctor or therapist and list his/her address and telephone number.

D. Courtship (Concerning the time from first date to proposal of marriage): Please give us some information relating to your courtship. Cover as many of the following points as possible. Please give factual examples. Provide dates or a time frame where possible.

- D1. How old were you and your former spouse when you first met?
- D2. How old were you and your former spouse when you first started to date?
- D3. How did you and your former spouse meet? Under what circumstances? What was the date (approximately)?
- D4. What reaction did your family or the Respondent's family have when you started dating.
- D5. What reaction did your friends have when you started dating?
- D6. Please describe frequency of dates, separations, and breakups.
- D7. Describe any problems between you and your former spouse during the courtship and how they were resolved. When did these problems first begin?
- D8. Did you and your former spouse have a sexual relationship with each other during this time? How did that influence the courtship?
- D9. Was a pregnancy involved in your decision to marry? Were there external pressures (parental, friends, church) to marry because of a pregnancy?
- D10. Describe the proposal of marriage. Who proposed, where, and under what circumstances?
- D11. What motivating factors brought about the proposal?
- D12. Did you and your former spouse have a pre-nuptial agreement? If so, why?
- D13. What was each family's attitude about the proposed marriage?
- D14. Was there any pressure for you or your spouse to marry?
- D15. Did either you or your former spouse deliberately conceal important information from each other before the proposal? If so, explain what it was and why it was concealed.
- D16. What did you like/dislike about your former spouse during the time that you were dating?
- D17. Did either of you date other people while also dating each other? Who? Did this become a point of tension between you and your former spouse?

E. Engagement (Concerning the time from the acceptance of the proposal to the wedding): Please give us some information about the engagement period. Cover as many of the following points as possible. Please give factual examples. Provide dates or a time frame where possible.

- E1. Did you and your former spouse have a sexual relationship with each other during the engagement? How did that influence your decision to marry?
- E2. Were there any miscarriages or abortions before the marriage? If so, describe how you were affected; how the relationship was affected?
- E3. Did you plan to have children in this marriage? If not, why?
- E4. Did the Respondent plan to have children in this marriage? If not, why? If not, how and under what circumstances did you become aware of his/her intentions?
- E5. What were the attitudes and intentions of both you and your former spouse about being faithful in marriage? Please describe any comments in this regard, how and when you became aware of these attitudes and intentions. Was anyone else present when these comments were made? If so, who?
- E6. Did you understand marriage as permanent, until death of one of you, and that it cannot be terminated by divorce, dissolution, or any civil court action? If not, what was your understanding about any termination of the marriage?
- E7. Did the Respondent understand marriage as permanent, until death of one of you, and that it cannot be terminated by divorce, dissolution, or any civil court action? If not, what was his/her understanding about any termination of the marriage?
- E8. What were your main reasons for entering this marriage?
- E9. Did you enter marriage with any serious doubts or reservations? If so describe them.
- E10. Did either you or your former spouse deliberately conceal important information from each other before the wedding? If so, explain what it was and why it was concealed.

If the marriage for which you are seeking a declaration of nullity was first celebrated in a non-Catholic ceremony and later convalidated, validated or blessed in the Catholic Church, then the questions hereafter should be answered referring solely to the convalidation, validation or blessing celebration in the Church.

F. Wedding and Honeymoon: Please give us some information relating to your wedding and honeymoon. Cover as many of the following points as possible. Please give factual examples. Provide dates or a time frame where possible.

- F1. During the preparation for this marriage did any priest, deacon, minister or counselor warn you about entering this marriage? If so, who and under what circumstances was the warning stated?
- F2. When you first started to plan for the wedding was it your desire to marry in a Catholic Church, a non-Catholic Church or in a civil ceremony? Were your plans ever changed before the wedding? Why?
- F3. Describe your feelings, and those of your former spouse, on the day of your wedding.
- F4. Did any serious and unusual event take place during the wedding rehearsal, or just before or during the wedding ceremony?
- F5. Was the honeymoon a pleasant experience for you and your former spouse? If not, please explain.
- F6. Was the marriage consummated? If not, please explain.
- F7. Were birth control measures being used at the time of the wedding? If so, why?

G. Married Life: Please give us some information relating to your marriage. Cover as many of the following points as possible. Please give factual examples. Provide dates or a time frame where possible.

- G1. Describe the quality of your communication during the entire marriage? Explain any problems in this area.
- G2. Were you and your former spouse able to express and receive signs of affection, warmth and closeness? If not, why not?

G3. What issues were a serious source of conflict between you (please be specific)? When did these issues first surface? Which, if any, were apparent before the wedding? What attempts were made to resolve them?

G4. Who among your family and your friends first became aware of the problems between you and your former spouse? Have you listed this person as a witness? If not, why?

G5. Why did the marriage fail? Give a detailed explanation of what you believe to be the chief reason or reasons for the breakup of the marriage.

G6. Were there any outside interferences that caused the breakup of the marriage? If so, please describe.

G7. At some point in time did you decide that it was a mistake to marry your former spouse? Please explain when and what brought about this conclusion.

H. Separation: Please give us some information relating to the final separation. Cover as many of the following points as possible. Please give factual examples. Provide dates or a time frame where possible.

H1. Did either of you fail to support the other at a time of crisis? If so, please describe.

H2. What did you consider your responsibility to be in married life?

H3. Did you and your former spouse share interests and activities? Describe any conflicts in this area.

H4. What was the quality of your sexual relationship during the marriage? Describe any problems in this area.

H5. Was there any instance(s) of infidelity during the marriage? If so, describe the circumstances and how this affected your relationship.

H6. If there were no children born of this marriage, please explain why. How did this affect your relationship?

H7. Were there ever any acts of violence committed by you or your former spouse toward the other during the course of the marriage? If so, when was the first act of violence? Who acted violently? Please describe the acts? Did violence recur? Were the police ever called to stop the violence? Specifically, when and where did these acts take place?

H8. Was there ever any practice of religion during the marriage? If not, why? If yes, what religion?

H9. If you and/or your former spouse sought marriage counseling, please provide the name and address of the counselor and the approximate dates of consultation.

H10. Were there any temporary separations during the marriage? If so, please describe the causes, circumstances, dates, duration and reasons for the separation and the reconciliation.

H11. What specific events, difficulties and/or circumstances led to the final separation and civil divorce (dissolution)?

H12. When did you stop living together?

H13. Who mentioned divorce first? When was the first time divorce was mentioned? What specific events gave rise to a suggested divorce?

H14. When did you or your former spouse file for a civil divorce (dissolution)?

H15. Did anyone attempt to talk you out of the final separation? If so, who and what was his/her reason.

I. Character: Please describe the character and personality of your former spouse. Cover as many of the following attributes as possible. Please give factual examples.

I1. Truthfulness

I2. Spiritual character

I3. Openness

I4. Devotion to children

I5. Dedication to work

I6. Personality (For example: happy, sad, depressive, outgoing, angry, quiet, argumentative, et cetera.)

J. Miscellaneous: Please answer the following questions individually.

J1. Has your former spouse ever remarried? If so, give the dates and places of the marriages. If any of these marriages ended in divorce, please explain.

J2. Have you civilly remarried? If so, give the dates and places of the marriages. If any of these marriages ended in death or divorce, please explain.

J3. Was your present spouse or proposed new spouse ever married before? If so, give the dates and places of the marriages. If any of these marriages ended in death or divorce, please explain.

J4. Will your former spouse be willing to cooperate with this Tribunal by giving his/her side of the story in writing or in person? Why do you believe this?

J5 Does your former spouse hold a grudge against you, any member of your family or any of the persons you have designated as witnesses? If so, please explain.

J6. Is there any additional fact or circumstance concerning the marriage to your former spouse that you believe is relevant to the evaluation of your petition for nullity? If so, describe.

J7. Have you ever been a **party to** any other **marriage**, whether Catholic, non-Catholic, civil court or wedding chapel? Please provide the name of the party(ies) married. If yes, keep in mind that the status of all prior marriages must be resolved in order to determine you to be free to marry in the Catholic Church.

J8. At this time, is there any possibility that, through the intervention of the Catholic Church, the marriage which is the subject of this petition, could be reconciled?

Parents: Give the names addresses and telephone numbers of your parents and the parents of your former spouse (They will be contacted to be witnesses in this case. Please do not list deceased parents.):

Your Parents:

Mother' name

Email address

Address

City, State & Zip

Area code & Telephone number

Father's name

Email address

Address

City, State & Zip

Area code & Telephone number

Former Spouse's Parents:

Mother's name

Email address

Address

City, State & Zip

Area code & Telephone number

Father's name

Email address

Address

City, State & Zip

Area code & Telephone number

If a language other than English is necessary for the parent to respond, please state the language needed for that person.

Witnesses: Give the names, addresses and telephone number of your witnesses, other than your parents, who know the circumstances of your marriage, in particular the reasons for you entering into marriage and the reasons for the failure of the marriage, and who are willing to testify on your behalf. Please call your witnesses and advise them that they will receive a questionnaire from us. Do not include anyone as a witness who is reticent to talk about his or her knowledge of marriage.

A. _____
Name (Mr., Mrs., Ms., Miss)

Email address

Address

City, State & Zip

Area code & Telephone number

Relationship/How long known?

B. _____
Name (Mr., Mrs., Ms., Miss)

Email address

Address

City, State & Zip

Area code & Telephone number

Relationship/How long known?

C. _____
Name (Mr., Mrs., Ms., Miss)

Email address

Address

City, State & Zip

Area code & Telephone number

Relationship/How long known?

D. _____
Name (Mr., Mrs., Ms., Miss)

Email address

Address

City, State & Zip

Area code & Telephone number

Relationship/How long known?

If you have additional witnesses, please list them on the back. In general only one questionnaire can be sent to a household. Therefore do not list a husband and wife as witnesses. Pick the one you believe will answer the questions fully and list that party. If a language other than English is necessary for the witness to respond, please state the language needed for that person.

Current Marital Status:

1. If you are presently married, whether in a civil or other non-Catholic ceremony, please provide the following information concerning your spouse; or,
2. If you are planning to remarry and wish that marriage ceremony to be in the Catholic Church, please provide the following information concerning your intended spouse.

Name of intended spouse (including maiden name)

Address City, State & Zip of intended spouse

Date of birth of your intended spouse _____ Was your intended spouse ever baptized? _____

If so, when, where, and in what denomination? _____

Has he or she **ever** been previously married **anywhere**? _____ How many times in total? _____

If he or she has been previously married, please list the name of each ex-spouse, the date of marriage, and how each marriage ended (Death; Civil Divorce only; or Annulment granted by the Catholic Church).

1. _____

2. _____

3. _____

4. _____

Your intended spouse must apply for an annulment through the Catholic Church (even if he or she did not marry in the Catholic Church) if his or her former spouse(s) is still living. That annulment petition must accompany this petition.

Have you already entered marriage with this person? _____

If yes, please state where? _____ and when? _____

No future marriage in the Catholic Church is to be scheduled until a decision on this case is reached by the Tribunal.

After completing this form and your answers to questions on separate paper, attach these question pages to the front of your responses. The questions and your answers should be presented to your advocate—pastor, deacon or lay advocate. That person will ask you to swear to their truth, have you sign below, witness your signature, and forward the Petition to the Tribunal. The following documents should also be submitted to the Tribunal.

1. A copy of your baptismal certificate issued within the last six months.
2. The civil certificate of marriage for the marriage involved in this Petition.
3. The final civil decree of divorce (dissolution).
4. Any other documentary evidence that would corroborate your testimony such as medical records or police reports.

AS GOD IS MY WITNESS, I DECLARE UNDER OATH THAT MY ATTACHED RESPONSES ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.

Signature of Petitioner

Appointment of Advocate: I hereby authorize and appoint the person whose signature appears below to act as my Advocate before the Tribunal of the Diocese of San Bernardino in my case concerning the asserted nullity of my marriage. I authorize the Advocate to receive notices on my behalf and to review any decrees or decisions of the Tribunal.

Signature of the Petitioner

Date

The Petitioner has signed the above oath in my presence on this date. I have read the statement and recommend that the Tribunal accept this case. Further, I accept appointment as Advocate in this case.

Signature of Priest/Deacon/Lay Advocate

Please print your name

Parish

Mailing address

City, State & Zip

Telephone number

Email address

SEAL

Advocates Brief

(To be completed by the Advocate and submitted with the Petition to the Office of Canonical Services.)

From the proofs submitted to me by the Petitioner herein it is my belief that one or more of the following conditions or circumstances led to the failure of the marriage of:

_____ and _____
Petitioner Respondent

Petitioner Respondent

_____ _____
Insufficient Use of Reason [Canon 1095, 1^o] Defect of consent because a person lacks sufficient use of reason. A person must have reasoning ability sufficient to know and understand that, in marrying, "a man and a woman give to and receive from each other, by an irrevocable covenant to constitute a partnership of the spouses' entire life together, a partnership ordered, by its nature, to the good of the spouses and to the procreation and upbringing of children." A serious condition, such as profound mental retardation, certain personality disorders or black-out states (caused by alcoholic intoxication, drug use or seizure disorder), might have prevented a person from possessing or using reasoning ability during the marriage ceremony. This is extremely rare.

_____ _____
Grave Lack of Discretionary Judgment Concerning the Essential Marital Rights and Duties [Canon 1095, 2^o] Defect of consent due to a grave defect of discretionary judgment concerning the essential matrimonial rights and obligations to be mutually given and accepted. This would entail a grave lack of understanding of the responsibilities of marriage and/or a serious lack of knowledge of oneself or the former spouse. Severe immaturity could be involved. To enter a valid marriage, a person must have the use of sound reason and mature judgment. This means the person is making a prudent and free decision, after careful judgment, to enter marriage with a particular person, and the decision is not impulsive or without forethought.

_____ _____
Psychological Incapacity to Assume Marital Obligations [Canon 1095, 3^o] Defect of consent because of an inability to assume the essential obligations of marriage due to causes of a psychological nature. 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 his/her psychological capacity to fulfill. Even if the condition became known or diagnosed only after marriage, if a person was severely 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 may be invalid. Often this involves a personality disorder or

mental illness that prevents a person from assuming at the time of consent the essential matrimonial rights and obligations to be mutually exchanged. Proof of the condition (usually a psychological evaluation and diagnosis) must be provided.

Petitioner

Respondent

Ignorance about the Nature of Marriage [Canon 1096]

Defect of consent because a person was ignorant of either the object or of the subject of marriage. The person was capable of knowledge but lacked the opportunity to know that Christian marriage is a permanent, exclusive, intimate, interpersonal relationship of a special nature between a man and a woman, ordered to the procreation of children through sexual cooperation. This knowledge is presumed in adult Christians.

Error of Person [Canon 1097, §1] Defect of consent due to error

concerning the other person. Marital consent is exchanged between a specific man and 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, (not personality or behavior) of the intended spouse, or, in other words, married someone other than the person he/she intended, the marriage is invalid. This is extremely rare.

Error about a Quality of Person [Canon 1097, §2] Defect of consent

due to error concerning a quality of the other person, directly and principally intended in a spouse. If one party 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 the marriage was the erroneous belief the intended spouse possessed that quality, the marriage may be invalid. The intended quality must be of such a magnitude that, without it, the person would not have married the other, and the discovery of the truth must have had a serious effect on the nature of the marriage.

Fraud [Canon 1098] Defect of consent when a person entered

marriage intentionally deceived by fraud, perpetrated to obtain marital consent, concerning some quality of the other party which of its very nature can seriously disturb the partnership of conjugal life. The fraud could have been perpetrated by the other spouse or by a third party, but the end result was the same: one of the contracting parties consented because he/she was deceived into doing so.

Error regarding Marital Unity (Fidelity) or Indissolubility that

Determined the Will [Canon 1099] Defect of consent due to error

concerning the unity or indissolubility of matrimony. Error about the substance of marriage can invalidate consent. When a person was not aware of the true nature of marriage, he/she may have chosen a model of marriage contrary to Christian marriage. The party was in error about the substance of marriage but believed that way of thinking is right. 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.

Petitioner

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Error regarding Marital Sacramental Dignity that Determined the Will [Canon 1099] Defect of consent due to error concerning the sacred character or sacramental nature of marriage between two baptized people. A person may enter marriage validly when he or she is in simple error (holding a false opinion) about the sacramental dignity of marriage. However, if one or both spouses entered marriage with an erroneous belief that marriage is simply a civil or secular matter and it has no relation to the sacred for the baptized, the marriage may be invalid. 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.

Total Willful Exclusion of Marriage (Total Simulation) [Canon 1101, §2] Defect of consent because a person entered marriage by a positive act of the will that excluded marriage itself. To simulate consent means to say one thing externally but to intend something quite different internally. Total simulation of marriage means one or both spouses, at the time of marriage, did not intend to enter a real marriage as taught by the Church. Instead, something quite different was intended. The person went through the motions but had no intention of entering marriage in harmony with the Church's teaching, rather the purpose was something extraneous to marriage. One example could be marriage entered into solely for the purpose of obtaining citizenship. This is often the best ground for a convalidation (sometimes done for the purpose of being godparents, getting children baptized, or 'fixing' the marital problems).

Partial Simulation of Marriage: (canon 1101) Defect of consent because at least one of the parties, by a positive act of the will, withheld from consent the right to an essential element or property of marriage, such as children, fidelity, permanence or the spouses (the four goods of marriage).

Willful Exclusion of Children (Partial Simulation – Intention Against Children) [Canon 1102, §2] An intention against children (*contra bonum prolis*) would involve withholding the right to sexual acts open to the begetting of children and/or withholding the right to the education of offspring not only academically but also religiously. This can take several forms: an outright intention to have no children in the marriage, a delay or postponement of children for illicit reasons, sterilization or consistent use of birth control to avoid pregnancy. The result usually is that no children are conceived after the wedding day or the number of children was deliberately and intentionally limited from the beginning.

Willful Exclusion of Marital Fidelity (Partial Simulation – Intention Against Fidelity) [Canon 1101, §2] An intention against fidelity, or exclusivity (*contra bonum fidei*), would involve the withholding of the right to fidelity by not recognizing that fidelity is essential to marriage

and by not intending to keep the vow of fidelity. 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.

Petitioner

Respondent

Willful Exclusion of Marital Permanence (Partial Simulation – Intention against Perpetuity) [Canon 1101, §2] An intention against the permanence (*contra bonum sacramenti*) of marriage would involve withholding the right to perpetuity; that is, entering the marriage with the idea that one had the right to divorce and remarry.

Willful Exclusion of the Good of the Spouses (Partial Simulation) [Canon 1101, §2] An intention against the good of the spouse (*contra bonum coniugum*) would involve not being mutually giving and accepting of one another, excluding any obligation to be loving, caring spouses who are equal in dignity and work together for the mutual good of one another.

Conditioned Consent – Future Condition [Canon 1102, §1] Defect of consent when a person entered marriage with a reservation or future condition. The spouses are required to give total and free consent to marry one another. If a person entered marriage while waiting to see if in the future a certain condition would be fulfilled or not (e.g., that one's spouse would change religions in the future, enter a certain profession or bear a child), the marriage may be invalid. 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.

Conditioned Consent – Past or Present Condition [Canon 1102, § 2] Defect of consent when a person entered a marriage based on a past or present condition of the existence or non-existence of a fact, typically concerning the spouse's or his/her past (e.g., citizenship, criminality) or present state (e.g., pregnancy, a medical condition, career, a character or trait). Placing such a condition on the marriage raises serious questions, and it may invalidate marriage when it is proven the condition, upon which the marriage decision depended, was not fulfilled at the time of marriage. This ground may be considered when one or both spouses entered the marriage with an expressed condition based on something from the past or present.

Force or Grave Fear [Canon 1103] Defect of consent because the marriage was entered into due to force or grave fear inflicted from outside the person, even when inflicted unintentionally, which was of such a type that the person was compelled to choose matrimony in order to be freed from it.

From the information provided by the Petitioner, it is my opinion that the marriage may be invalid for the following reasons:

Additional comments of the Advocate: (Other concerns about the processing of the case-Petitioner is in RCIA, is not fluent in English, has trouble reading and writing, suffers from a chronic illness, etc.)

The Petitioner has been informed regarding the following:

- the need to contact his/her ex-spouse;
- the importance of witness testimony;
- estimates of time to complete the case (up to two years); and
- any prohibition against scheduling or entering a new marriage prior to the conclusion of this case.

Priest, Deacon, Lay Advocate

Date