

(Church / Court Street address) (County) (State)

4. HOW, WHEN and WHERE (e.g. place of divorce) did EACH marriage end?

Divorce, Death, Annulment	Date	Place (County & State)
A. _____	_____	_____
B. _____	_____	_____
C. _____	_____	_____

5. To which marriage does THIS APPLICATION refer? (Circle one): A or B or C

6. Is this a marriage that took place in a non-Catholic setting with the permission of the Catholic Church? _____

If YES, what parish has the Catholic records? _____

7. Have you EVER been baptized, sprinkled or christened? _____

If YES, in what religion? _____ Approximately when? _____

Name and Address of church: _____

What was your religion at the time of this marriage: _____

8. Are you related to your former spouse by blood, adoption or as an in-law? _____

If YES, how? _____

9. Ages at the time of the marriage to which this application applies: Man: _____ Woman: _____

FORMER SPOUSE INFORMATION

10. PRESENT Legal Name of Your Former Spouse to Whom This Application Applies:

(Reasonable efforts MUST be made to provide the address of your former spouse. Failure to do this will delay the case.)

(Circle: Mr., Mrs., Miss, Ms., Dr.)

(First) (Middle Initial) (Last)

(Maiden Name): _____

Street Address: _____ Apt. No. _____

(City) (County) (State) (Zip Code)

Is this his/her only residence? _____ If NO, please explain: _____

Telephone (with area code): (home) _____ (work/cell) _____

E-mail Address: _____ Occupation: _____

Work Address: _____

Date of Birth: _____ Place of Birth: _____

11. How long did the two of you date before becoming engaged? _____

How long were you engaged before you were married? _____

12. How many children were born or adopted into the marriage? _____

13. Approximate date when you and your former spouse finally separated (not the divorce): _____

14. Was your former spouse EVER been baptized, sprinkled or christened? _____

If YES, in what religion? _____ Approximately when? _____

Name and Address of church: _____

If NO, how do you know? _____

What was the religion of your former spouse at the time of this marriage: _____

15. Have ANY of your prior marriages ever been brought to the attention of a church Tribunal or Chancery Office? _____

If YES, which one, when and where? _____

SECTION B

Information about your former spouse's prior marital history.

This section is to be completed ONLY IF your former spouse had a prior marriage, that is, if the answer to question 16 is YES.

16. Was your FORMER SPOUSE ever married to another person BEFORE marrying you? _____ ***If NO, go to section C.***

17. How many times was your former spouse married before marrying you? _____

If he/she was married more than once BEFORE marrying you, please answer questions 18-21 for each of these marriages on separate pages and attach.

18. Was your former spouse's PRIOR marital partner:

a) *alive* at the time you married your former spouse? _____ ***If NO, go to section C.***

b) *alive* the entire duration of your marriage to your former spouse? _____

19. Was this marriage the FIRST for both parties? _____ If NO, please explain: _____

20. Was your former spouse's earlier marriage ever declared invalid by the Catholic Church? _____

21. Please provide the following information and/or documentation if at all possible.

Name of your former spouse's prior spouse (including maiden name, if a woman): _____

Religion of his/her prior spouse: _____

Date and place of your former spouse's prior marriage: _____

Date and place of the divorce: _____

Section C

Assessment of marital attitudes

22. *At the time of the wedding, people have different attitudes and beliefs about what marriage means, as well as various abilities. The following statements are designed to help the Tribunal gain a better understanding of the abilities, attitudes and beliefs of you and your former spouse. Please review each of the statements about your wedding and check the boxes that apply to you and/or your former spouse (F.S.). These items refer to **PRINCIPAL OR MAJOR** traits that you and your former spouse brought into the marriage. In any given section, you may check one box, several boxes or no box. There are no 'right' or 'wrong' answers. Based on your responses to these statements you will be sent a specific questionnaire to guide you in writing out your testimony. As part of the Tribunal process you will be asked to provide the names of witnesses who are able to corroborate your description of your marital situation.*

YOU F.S.

A. At the time of our wedding, one or both of us:

- ☐ ☐ was not mature enough to understand what a commitment entailed;
- ☐ ☐ was trying to get away from something unpleasant in our lives;
- ☐ ☐ believed we were committed to the marriage because of dating for so long;
- ☐ ☐ because of personality problems did not seriously consider what it would mean to be married to each other;
- ☐ ☐ had serious doubts about whether this was a good decision;
- ☐ ☐ did not realistically consider whether our relationship was strong enough for us to be married;
- ☐ ☐ had little or no dating experience;
- ☐ ☐ ignored the significant opposition of family and/or friends.

B. At the time of our wedding, one or both of us:

- ☐ ☐ had personal or family involvement with physical abuse, sexual abuse, alcohol or drug abuse;
- ☐ ☐ had received or needed to receive counseling for a serious psychological disorder;
- ☐ ☐ was unable to establish stability in a job, education, lifestyle or a relationship;
- ☐ ☐ had a history of violence or other antisocial behavior;
- ☐ ☐ could not accept personal responsibility for actions committed;
- ☐ ☐ struggled with what would later be seen as an addiction (gambling, controlled substance, etc.);
- ☐ ☐ expressed or experienced difficulties with sexual orientation.

C. At the time of our wedding, one or both of us:

- ☐ ☐ went through the marriage ceremony for a reason other than contracting marriage;
- ☐ ☐ felt that a career was more important than marriage;
- ☐ ☐ felt that the most important thing was personal happiness;
- ☐ ☐ felt that we were creating an 'open marriage';
- ☐ ☐ wanted to back out of the ceremony but could not do so;
- ☐ ☐ had no example of a stable marriage while growing up;
- ☐ ☐ did not intend to assume any permanent obligations toward the other person;
- ☐ ☐ did not intend a marriage to give any permanent rights to the other person;
- ☐ ☐ felt obliged to marry as a means to continue living together.

D. At the time of our wedding, one or both of us:

- ☐ ☐ never intended to have children, although this may not have been discovered until after the wedding;
- ☐ ☐ would not have sexual relations unless birth control was used;
- ☐ ☐ intended to delay, limit or exclude children until our situation was financially secure;
- ☐ ☐ intended to delay, limit or exclude children until the marriage proved successful;
- ☐ ☐ never intended to take any responsibility for the upbringing of children.

E. At the time of our wedding, one or both of us:

- ☐ ☐ believed sexual infidelity was acceptable for a reason (e.g., as long as there was no emotional involvement);
- ☐ ☐ believed occasional sexual infidelity was acceptable for a reason (e.g., as long as it remained hidden);
- ☐ ☐ believed sexual infidelity was acceptable as long as both parties agreed;
- ☐ ☐ was sexually unfaithful shortly before or shortly after the wedding.

YOU F.S.**F. At the time of our wedding, one or both of us:**

- ☐ ☐ grew up with the belief that divorce was an acceptable alternative to unhappiness in marriage;
- ☐ ☐ felt that divorce was a tolerable alternative to a lifelong unhappy marriage;
- ☐ ☐ felt that we could divorce in certain circumstances, such as adultery;
- ☐ ☐ felt that we would remain married as long as our love lasted.

G. At the time of our wedding, one or both of us:

- ☐ ☐ intended to be married only for as long as we felt we would be fulfilled;
- ☐ ☐ intended to be married only as long as we would be financially provided for in the marriage;
- ☐ ☐ intended to be married only for as long as some condition was true (e.g., virginity, education, social status, family involvement, freedom from alcoholism, freedom from physical abuse, ability to have children, etc.);
- ☐ ☐ intended to be married only as long as there was no infidelity.

H. At the time of our wedding, one or both of us:

- ☐ ☐ believed that because of a pregnancy there was no other option except marriage;
- ☐ ☐ believed that because we were sexually active with each other, marriage was inevitable;
- ☐ ☐ believed that because of parental objection(s) to our living together, marriage was the only alternative;
- ☐ ☐ was afraid NOT to get married, for one reason or another;
- ☐ ☐ decided to marry in order to avoid the displeasure of a person important to our situation.

I. At the time of our wedding, one or both of us:

- ☐ ☐ mistakenly believed that the other party was someone, or something, that he/she was not;
- ☐ ☐ did not understand that marriage could only be dissolved by the death of the spouse;
- ☐ ☐ did not understand that marriage imposed an obligation of absolute fidelity on both parties;
- ☐ ☐ did not understand that one of the primary purposes of marriage was the bearing and educating of children;
- ☐ ☐ did not understand that marriage involved the care of one's spouse;
- ☐ ☐ did not know or understand that marriage is not only a civil contract but also a spiritual union.

J. At the time of our wedding, one or both of us:

- ☐ ☐ deceived the other about the real reason for marrying;
- ☐ ☐ concealed something that the other had a right to know because there would have been no wedding if it were known;
- ☐ ☐ found out something vital about the other party after our wedding, which, if known before the wedding, would have stopped the wedding from taking place;
- ☐ ☐ kept something secret before the wedding that later became disruptive of married life.

K. (The following only applies to the marriage under consideration if it was 'blessed', or convalidated, in the Catholic Church, that is if your answer to question #6 was YES.) At the time of our marriage, one or both of us felt that our 'blessing of the marriage in the church' was:

- ☐ ☐ a Catholic confirmation of an already valid marriage ceremony that took place outside the Catholic Church;
- ☐ ☐ the first genuine and true marriage between myself and my former spouse;
- ☐ ☐ a blessing by the Catholic Church of an already genuine and true marriage by which the union became a sacrament or a spiritual covenant;
- ☐ ☐ a religious ceremony required by the Catholic Church for official recognition of the "marital union" between myself and my former spouse for the purpose of restoring the Catholic party to full communion;
- ☐ ☐ something that was unnecessary, but that we went through for some other reason (e.g., to get our child baptized, to satisfy our parents, etc.).

L. Briefly state in your own words why the marriage under consideration ended: _____

SECTION D

Future marriage

23. Are you presently married (even if only civilly)? _____ Or are you planning marriage? _____

If both answers to this question are NO, go to section E.

24. LEGAL name (before marriage) of your *present/intended* marital partner:

(Maiden Name): _____

25. Address: _____ Date of Birth: _____

26. PRESENT religious affiliation of your *present/intended* partner: _____

27. If you are PRESENTLY married (even if only civilly), please indicate:

Date of Marriage: _____ Place of Marriage: _____
Church/Court/etc. *City/County/State*

28. Was your *present/intended* marital partner ever married to another person (even if only civilly)

BEFORE marrying you? _____ *If NO, go to Section E.* If YES, number of times: _____

29. Was (Were) the marriage(s) declared invalid by the Catholic Church? _____

NOTE: *If no ecclesiastical annulment was received for any previous marriages of your present/intended spouse or they were not terminated by death, a Declaration of Nullity by the Catholic Church MAY be needed. Please consult with your parish staff.*

SECTION E

30. Are there any exceptional circumstances or situations involved with this case of which you feel the Tribunal staff should be aware? If YES, briefly describe them: _____

Signature of Applicant

Signature of Pastoral Minister (required)

Date: _____

Pastoral Minister's Name: _____
(please print)

PLEASE RETURN TO:

Parish Address: _____

Office of the Metropolitan Tribunal
Attention: Applications
835 North Rush Street
Chicago, IL 60611

Parish Telephone Number:

A \$50 FEE, IF AFFORDABLE,
IS REQUESTED.
MAKE CHECKS PAYABLE TO:
CATHOLIC BISHOP OF CHICAGO

Retain a copy of this form for yourself.

(office use only)

Formal Competence:

Documentary Permission needed:

Dissolution TOP #:

Other _____ Reviewer: _____

**FREQUENTLY ASKED QUESTIONS
ABOUT
*DECLARATIONS OF NULLITY***

F. A. Q.



**Metropolitan Tribunal
Archdiocese of Chicago**

2010

Metropolitan Tribunal
Archdiocese of Chicago
835 North Rush Street
Chicago, Illinois 60611



TELEPHONE: 312.534.8280



FAX: 312.534.8314

ON THE COVER:

The official logo for the Tribunal of the Archdiocese of Chicago is a phoenix, calling to mind not only the city of Chicago rising from the ashes of the 1871 great fire, but also the belief in the power of life over death. The Latin phrase, "Salus animarum, suprema lex" is an ancient canonical maxim: "the supreme law is the salvation of souls."

INTRODUCTION

Since the beginning of history, men and women have been giving themselves to each other in marriage. For Christians, marriage is a unique union in which two become one in an unbreakable bond, called the sacrament of matrimony.

Unfortunately, marital breakdown has also been a part of that history. The end of a marriage results in great personal pain and loss for the couple. The teachings of Jesus regarding marriage are of a high standard. The Catholic Church believes that no one can break a valid sacramental bond of marriage. So, when a marriage ends, it is not unusual for a person to feel that they have let themselves and their Church down. It is for this reason that the Church has developed a judicial system to determine if any factors present in the marriage that caused the breakdown of the marriage were indeed an impediment or barrier to creating the unbreakable bond of marriage in the first place.

The Catholic Church is aware of the high stress and deep loss involved with divorce. The Church addresses the needs of the divorced while still supporting the permanence of a valid marriage. The Metropolitan Tribunal, the judicial arm of the Church, seeks a clarification of a person's standing in the Church and whether they are free to marry again in the Church. It is the Tribunal's hope that this process may offer an opportunity for healing for all concerned.

To clarify the process you are about to begin, a brief explanation may be helpful to you. This process is very different from the civil process you went through at the time of your divorce. The Church process concerning a *declaration of nullity* seeks the truth of what occurred at the time a couple exchanged vows on their wedding day. It

makes a statement of fact after reviewing the testimony. If an affirmative decision is given, it is a statement that there was no real covenant at the time of consent because of the presence of some barrier or impediment. However, it must be kept in mind that one is still bound to certain moral and/or legal (civil) obligations (*e.g.*, child support). This booklet is designed 1) to answer the most commonly asked questions about a *declaration of nullity* and 2) to assist one in making a petition to the Tribunal.

You may access the Archdiocesan website: www.archchicago.org (go to “Departments” and then click on “Tribunal”), or call the Tribunal weekdays between the hours of 9:30 AM and 4 PM at 312.534.8280. When calling this number you may press n° 1 for English, n° 2 for Spanish, or n° 3 for Polish.

Written inquiries should be sent to:

**Metropolitan Tribunal
Archdiocese of Chicago
835 North Rush Street
Chicago, Illinois 60611**

QUESTIONS CONCERNING TRIBUNAL PROCEDURE

The following questions refer to the procedures of the Metropolitan Tribunal. The second section refers to questions that petitioners and respondents often ask.

1. WHAT DOES THE CATHOLIC CHURCH TEACH ABOUT MARRIAGE?

The Church teaches that marriage is created by God and governed by his laws. All people who are capable of giving consent can marry. Marriage is the union between a man and a woman that is an unbreakable covenant. However, certain requisites are essential for this covenant to be unbreakable and binding.

- A person must commit to a marriage that is permanent, exclusive and open to children.
- A person must be capable of committing to marriage by making a mature judgment and a life-long commitment with the psychological stability necessary to live out that commitment.

2. WHAT IS A FORMAL DECLARATION OF NULLITY?

A formal *declaration of nullity* is a statement by the Roman Catholic Church that the marriage in question was not a binding (sacramental) union. A formal *declaration of nullity* is a statement by the Church that a relationship fell short of at least one of the elements seen as essential for a valid marriage according to the teachings of the Catholic Church.

- It does **not** deny that a relationship existed which was recognized as a marriage by civil law.
- Furthermore, it does **not** imply that the relationship was entered with ill will or moral fault.
- It does **not** say that children of such marriages become illegitimate.

3. WHAT MUST BE PROVEN?

- It must be proven that when the couple exchanged consent an essential element of marriage was lacking even though it may not have been evident to the couple at that time.
- Please note that adultery or other serious problems that took place during the marriage are not in and of

themselves sufficient proof that a marriage was invalid at its inception.

4. WHO NEEDS A *DECLARATION OF NULLITY* FOR A PREVIOUS MARRIAGE?

- All Catholics who are married in the Catholic Church before a priest or deacon and two witnesses or who received permission from the Catholic Church to marry elsewhere and want to remarry or clarify their status within the Church;
- All Orthodox Christians who are married in their proper Orthodox Church;
- All others who are married in any way and now wish to marry a Catholic.

5. WHO MAY APPLY FOR A FORMAL *DECLARATION OF NULLITY*?

WHY DOES THE CHURCH MAKE A JUDGMENT ABOUT THE VALIDITY OF A MARRIAGE?

WHY DOES THE CHURCH BECOME INVOLVED IN THE MARRIAGES OF NON-CATHOLICS?

- Either party to a former marriage may apply for a *declaration of nullity*.
- The Catholic Church only has a right to look into a marriage's validity when one of the parties to that marriage petitions it to do so.
- The reason that the Catholic Church becomes involved in the marriages of non-Catholics is usually because a divorced non-Catholic person now wishes to marry a Catholic. Since all consenting adults are free to marry, the Catholic Church ordinarily views the marriages of non-Catholics as binding unless the presence of some defect or impediment is proven.

6. WILL A FORMER SPOUSE BE CONTACTED AND WHY?

- Yes. At the same time that the petitioner (the one who submits a petition to the Tribunal) is notified that the case has been accepted, the Judge will inform the former spouse (the respondent) and will

offer him/her an opportunity to participate. The non-participation of the former spouse usually does not hinder the progress of the case. However, the cooperation of the former spouse is invariably helpful to the process.

- One's former spouse was a party to the marriage. Just as in civil law, when one is taking an action involving another person, he/she must be informed of it. If a former spouse is not interested in taking part in the Tribunal proceedings, that is his/her choice, but Church law requires that he/she must be notified.

7. SHOULD I TELL MY FORMER SPOUSE THAT I AM DOING THIS?

If you are able to do so, it is a courtesy. Even though you are now divorced and there may be hard feelings between you, telling your former spouse why you are beginning this process is a kind thing to do. Otherwise, it can be intimidating to your former spouse to receive a letter from the Tribunal that you are doing this. You may want to indicate that you are doing this for spiritual reasons and to put closure on that stage of your life. Make it clear that this is not going to be an adversarial process, but a way of seeking the truth about what occurred between the two of you at the time of your marriage.

8. WHAT IF THE ADDRESS OF THE FORMER SPOUSE IS UNKNOWN?

- Church law requires that the former spouse be contacted. However, if the former spouse's address is unknown, it must be established that the petitioner has used reasonable means to ascertain the former spouse's specific place of residence. It is left to the discretion of the Judge to determine the adequacy of the petitioner's efforts on a case-by-case basis. If the former spouse's whereabouts remains unknown, an Advocate will be appointed to act on his/her behalf.
- A reasonable effort includes consulting relatives of one's former spouse, employers, phone directories,

or internet searches. If these efforts fail, your case can still proceed.

9. HOW IS A FORMAL *DECLARATION OF NULLITY* PROCEDURE STARTED?

- A civil divorce must first be finalized before this process can begin. For marriages not recognized civilly this is not necessary.
- The petitioner then should complete an application with the assistance of a pastoral minister. (Applications are available at all parishes in the Archdiocese of Chicago and the Archdiocesan website). All questions should be carefully answered with current legal names indicated where requested. An incomplete application delays the process. It is very important to supply a current address for contacting the former spouse.
- After an application has been received, a packet containing a pertinent questionnaire and various forms for signatures will be sent. The Tribunal gathers its evidence by sworn written affidavits. The petitioner puts forth his/her contentions in the written case history of the parties' backgrounds, courtship, marriage and divorce. Normally the petitioner completes the testimony without assistance. However, in some cases, a pastoral minister may assist the petitioner with this task. A priest, deacon or pastoral minister will ordinarily notarize any signed forms.
- After all the questionnaires and forms have been completed, the petitioner is to return the documents to the Tribunal. The Tribunal will acknowledge receipt of the completed packet.
- The petitioner will be assigned a Tribunal Field Advocate and will be asked to make an appointment with him/her.

10. WHAT IS A FIELD ADVOCATE AND HIS/HER ROLE?

- Field Advocates are specially trained laypersons, deacons, religious sisters and brothers and priests throughout the Archdiocese who assist petitioners in

presenting a case to the Tribunal. They are members of the Tribunal staff.

- The Field Advocate conducts a personal interview with the petitioner, helps in the preparation of a formal petition and ensures that the forms and other data are complete. He/she will answer any pertinent questions.
- The Field Advocate then returns everything to the Tribunal so it can be evaluated for possible acceptance.

11. WHEN IS A CASE FORMALLY ACCEPTED?

- After the Field Advocate has returned the completed packet to the Tribunal Office, the case will be assigned to one of the Judges. The Judge will determine whether there are plausible grounds on which to accept the case.
- A case is accepted when the Judge notifies both parties. *Any procedures prior to this time are strictly preliminary preparation of a case.*

12. IN GENERAL, WHAT IS THE PROCEDURE ONCE THE CASE IS ACCEPTED?

Church Tribunals generally gather their evidence by sworn written affidavits or by a personal interview when necessary. There is never a meeting between the two former spouses.

- The Judge informs both parties of the grounds for the case and names of the Court personnel via the U.S. mail.
- The respondent, as well as the petitioner, are given an opportunity to accept, object or suggest other grounds for the case, as well as to accept or object to the Court personnel. Additionally, the respondent is given the opportunity to participate in the proceedings by giving testimony and submitting the names of witnesses. If he/she does wish to participate, a questionnaire and forms are sent to the respondent.

- Witnesses who are knowledgeable about the courtship, engagement and marital situation will then be asked to submit written statements.
- The parties may be asked to be interviewed by a Court-appointed psychologist.
- In some cases, a psychologist will submit an opinion after reviewing the testimony.
- The Judge will inform both parties when the case is being closed to further testimony and that they have two weeks to submit any additional evidence. At that time, both parties have a right to review the testimony at the Tribunal Office. However, copies of documents or notes may not be taken from the Tribunal Office.
- In order to safeguard the marriage bond, a member of the Tribunal staff, who is known as the Defender of the Bond, submits a brief presenting any reasonable objections to a possible *declaration of nullity*.
- If an Advocate has been appointed for either party, he/she will now submit a brief.
- The Judge then makes a decision and both parties are informed of the decision. If they wish, the parties can review the decision at the Tribunal Office.
- If there is an affirmative decision, the case is then sent to the Court of Appeals since there is an automatic appeal of every affirmative decision of the Chicago Tribunal. If the Court of Appeals confirms the first court's decision, the *declaration of nullity* is finalized.
- If there is a negative decision, the case ends at this point, unless one of the parties appeals that decision. For detailed information about the appeal process, see question numbers 17-20.
- Throughout this procedure, both parties are kept informed of the progress of the case.

13. IS TESTIMONY KEPT CONFIDENTIAL?

All the information gathered in the course of this investigation is considered confidential. This information is not made available except as may be au-

thorized by Church law or State law regarding mandated reporting.

- Church law states that both parties do have access to the information collected unless the Judge determines that access to a particular part of the information may cause serious harm or unless the information is protected by civil statute.
- The purpose of this access is to defend one's position for or against a possible ecclesiastical *declaration of nullity*.
- Your former spouse has a right to know what you are testifying about your marriage. He/she has the right to dispute or agree with what you write. If your former spouse submits testimony, you have a right to read it and to comment on it.

14. ALL ABOUT WITNESSES.

A witness is a person who can provide the Tribunal with information about the parties and their relationship. Ideally, a witness is able to provide information about the time leading up to the marriage, the marriage itself and the reasons for the break-up of the marriage.

- Most persons, including family members, are eligible witnesses. Specifically excluded by Church law are confessors and minors.
- In general, the Tribunal does not request children of the parties, regardless of age, a current civil spouse or a prospective spouse of either party to offer testimony unless there is some special reason.
- The Judge will usually contact the witnesses within three weeks of accepting the petition. Ordinarily they are not required to appear at the Tribunal Office.
- The petitioner will have been asked to provide the names of at least three witnesses who will be able to provide substantive testimony about the marriage. The respondent also has the right to provide the names of witnesses.
- It is important that the petitioner makes sure that the witnesses have agreed to cooperate prior to submitting their names and addresses to the Tribun-

al. In addition, the petitioner should encourage the witnesses to respond to the Tribunal Office in a reasonable amount of time (*i.e.*, two weeks). Failure of the witnesses to cooperate in due time is one of the main reasons for a delay in the processing of a case.

- Sometimes the Tribunal may ask for character witnesses to strengthen the case.

15. DOES A FORMAL DECLARATION OF NULLITY AFFECT THE LEGITIMACY OF CHILDREN?

No. Church law specifically states that children born of a marriage which has been declared invalid are legitimate and remain legitimate (canon 1137). This is a greatly misunderstood point. The decision of a Church Tribunal has no effect on civil norms that govern child support, visitation rights, and the legitimacy of children. Just as a civil divorce or a civil annulment do not make children illegitimate, neither does a Church *declaration of nullity*.

16. WHAT IS THE DIFFERENCE BETWEEN MY CIVIL DIVORCE AND THE CHURCH'S DECLARATION OF NULLITY? WHY IS THE CIVIL DIVORCE NOT SATISFACTORY IN THE EYES OF THE CHURCH?

Since Church and State matters are separated in our country, a *declaration of nullity* by the Catholic Church does not have any civil effect. As a result, individuals must first obtain a civil divorce to satisfy civil legal requirements. Often in the civil divorce proceedings grounds are used that are most expedient or considered "no fault." A church *declaration of nullity* looks into all the facts of a marriage in making its declaration.

17. IS THE DECISION OF THE CHICAGO TRIBUNAL FINAL?

- No. As was previously mentioned (question number 12), every affirmative decision must be reviewed by the legitimately designated Court of Ap-

peals. (This is the regional Church Court of Appeals for all the dioceses in Illinois). Either party may add a personal appeal to this review. Also, either party may make a direct appeal to the Roman Rota, as explained in the next question.

- If a negative decision has been given by the Chicago Tribunal, the process ends at that point unless either party makes an appeal to the Court of Appeals.

18. HOW DOES THE APPEAL PROCESS WORK? CAN A CASE BE APPEALED DIRECTLY TO ROME?

The Chicago Tribunal will notify the parties when a decision has been reached. If either party is aggrieved by the decision, he or she is asked to contact the Judge in writing within three weeks to add his/her “personal appeal.” The Judge will then forward this request to the Court of Appeals. The Court of Appeals will then instruct the parties how to proceed.

- After the Court of Appeals has concluded its work, it will inform the Chicago Tribunal of its decision. Both parties will be informed of this decision.

- Generally, this Court of Appeals handles all appeals. However, a party may appeal directly to the Roman Rota — the highest marriage Tribunal of the Church — and the appeal is decided by that Tribunal. The one who appeals to the Roman Rota must bear the costs associated with the appeal.

19. WHAT MUST I DO IF I WANT TO APPEAL THE TRIBUNAL’S DECISION?

You may add your personal appeal to the automatic appeal that is required for each affirmative decision. To add your personal appeal you must do the following:

- Notify the Judge in writing within three weeks of receiving notification of the decision that you wish to add your appeal.

- If you wish, you may read the decision at the Tribunal office to understand better the reasoning upon which the decision is based.
- You must indicate what new grounds or new evidence you will bring forward for your appeal.
- Unless you indicate that you wish to appeal the case to the Roman Rota, it is presumed that you wish the case to be heard by the regional Court of Appeals.
- You must assume any expenses associated with the appeal.

**20. IF AN AFFIRMATIVE DECISION IS CONFIRMED
BY THE COURT OF APPEALS OR THE
ROMAN ROTA, ARE BOTH PARTIES FREE
TO MARRY IN THE CATHOLIC CHURCH?**

Yes. It means that the previous marriage is no longer an obstacle for either party to enter into a new marriage in the Catholic Church. Since there is only one bond of marriage between the two parties, a *declaration of nullity* releases both parties from that bond.

- However, because of the trauma associated with divorce, in some cases the Judge will recommend that one or both parties engage in a program of counseling before attempting a new marriage.
- In other cases, the Court of Appeals may issue a “prohibition,” which requires consultation between the priest, deacon, or pastoral minister of the one who wishes to enter a new marriage and a representative of the Tribunal at least four months before another marriage is scheduled to be celebrated in the Catholic Church.
- A “prohibition” is placed in those cases where there is serious concern whether a person currently is capable of entering a valid union or has the proper attitudes toward the essential obligations of marriage.

21. DOES THE CHICAGO TRIBUNAL EVER GIVE A NEGATIVE DECISION?

- Yes. Church law presumes that all marriages properly celebrated are valid. The petitioner must overturn this presumption by offering convincing evidence to the contrary. This proof must be based on something more than just the opinion of one or both parties that the marriage in question was null.
- If a negative decision is rendered by the Chicago Tribunal, the case ends at that point unless one of the parties wishes to appeal that negative decision. Then the proper appeal procedure is followed as stated above.

22. ARE THERE DIFFERENT PROCEDURES THAT A TRIBUNAL USES IN DECIDING MARRIAGE CASES?

The procedure described above is what is called a “formal *declaration of nullity* case.” Depending on the facts and the circumstances of each case there are other procedures that can be followed. If your case falls into one of these categories, the Tribunal will contact you after it receives your application and will explain the procedure in more detail. For example, if one or both parties are not baptized, a case could proceed as a *Favor of the Faith* case. If there was some impediment present (*e.g.*, blood relationship), the case could follow the *Documentary* procedure.

OTHER FREQUENTLY ASKED QUESTIONS

The following are some of the questions that petitioners and respondents often ask. They are placed together here so that each party might have greater insight into the concerns of the other.

23. HOW LONG DOES THE FORMAL DECLARATION OF NULLITY PROCEDURE TAKE?

It is not possible to specify how long the process will last. Generally, a decision is reached within 12-24 months of the Judge's acceptance of the case (see question number 11). **Nevertheless, in no case can a favorable decision or its date of issue be guaranteed.**

24. CAN THE CHICAGO TRIBUNAL ACCEPT ALL CASES?

There are some cases that the Chicago Tribunal cannot accept because of jurisdiction. Generally, the Chicago Tribunal can accept cases if the marriage took place within the Archdiocese or if either of the parties lives in the Archdiocese. You will be promptly informed if this affects your case.

25. DO BOTH PARTIES HAVE THE SAME RIGHTS?

Yes, both parties have the same rights. However, along with those rights are the obligations of cooperating with the Metropolitan Tribunal. Some of the basic rights are:

- to know about the proceedings and proposed grounds;
- to be able to raise reasonable objections to the proposed ground or suggest additional or different grounds;
- to have an Advocate appointed to assist him/her;
- to be able to provide testimony and the names of witnesses.
- to have access to the testimony of the other party;
- to personally appeal the decision.

26. WHAT IF I DISAGREE WITH THE GROUNDS?

Either party has a right to object to the proposed grounds and can make this known to the Judge. Either party can propose other grounds for the case.

However, it is the Judge who ultimately sets the grounds after weighing any objections.

**27. WHY ARE CANONICAL GROUNDS FOR A
DECLARATION OF NULLITY DIFFERENT FROM THE CIVIL
GROUNDS WE USED FOR OUR DIVORCE?**

The law used in Tribunal proceedings is based on Roman Law and the Catholic Church's theological understanding of marriage — not English Common Law. The grounds for a *declaration of nullity* are based either on a person's capacity to enter marriage or his/her lack of proper intention at the time of marriage. They do not include common civil grounds, such as irreconcilable differences or no fault.

**28. IF I WANT AN ADVOCATE TO ASSIST ME,
CAN I HAVE ONE OF MY OWN CHOOSING?**

You have a right to an Advocate who must be approved by the Tribunal. This Advocate is familiar with canon law and our Tribunal proceedings in order to safeguard your rights.

**29. WHY ARE THERE TIME LIMITS SET FOR THE
VARIOUS STAGES OF THESE PROCEEDINGS?**

- Like our civil law, a person has a right to have a case heard and concluded within a reasonable time. There are mechanisms built into the law to avoid unfounded or frivolous delays.
- Your former spouse does have a right to present his/her side of the story. However, there are checks and balances in the process that prevent a person from unduly delaying the proceedings.

**30. WHAT CAN I DO IF I DISAGREE WITH
THE TRIBUNAL'S DECISION?**

As previously mentioned (question number 18), either party has a right to appeal the Judge's decision. However, any appeal must be based on new testi-

mony or new grounds and not merely a restatement of what is already in the case.

31. WILL A *DECLARATION OF NULLITY* CHANGE ANY OF THE PROVISIONS IN OUR DIVORCE DECREE?

No. The Tribunal's decision has no civil effects because of the separation of Church and State in our country.

32. HOW CAN THE CHURCH TRY TO "ANNUL" MY MARRIAGE? YOU CANNOT ERASE SOMETHING THAT ACTUALLY HAPPENED?

Actually, the term "annulment" is used commonly but does not appear in the *Code of Canon Law* at all. The terms — *null*, *nullity*, *declaration of nullity* — are being used in a technical-legal sense, not according to the common understanding that we usually give to these words.

- The Church cannot erase the fact that two people lived together for a certain amount of time or that a marriage produced children.
- A *declaration of nullity* states that despite the fact that two people went through all the formalities of marriage, it fell short of one or more of the requisite elements necessary for a valid marriage (see question number 1).
- A *declaration of nullity* is a statement that a marriage is not valid based on the facts and evidence in light of the law.

33. WHY DO I HAVE TO GO THROUGH SUCH A LENGTHY AND COMPLICATED PROCESS?

I AM A PERSON OF GOOD FAITH. WHY CAN'T THE CHURCH BELIEVE ME THAT MY MARRIAGE WAS A MISTAKE? IT WAS EVIDENT THAT THERE WERE PROBLEMS IN MY MARRIAGE.

Many marriages have problems. Yet, the couples often learn to work them out and move past them.

When a marriage ends in divorce, it is important to look at why that happened. When couples marry, they vow that they are making an informed decision to wed and that they are fully committing themselves to this unbreakable covenant. In this process, at least one of the parties is now making a claim that this was not so.

- Whether the marital covenant is binding or not, is not just a matter of opinion, but must be proven by facts. The burden of proof rests on the party who petitions the Tribunal.

- A church *declaration of nullity* is saying more than a marriage was just a mistake. It is saying that something essential to this covenant was missing.

- A petitioner is asking the Church to clarify his/her status in the Church: Is he/she bound to this marriage, or not? A decision cannot be made unless all the facts are presented and evaluated. Again, the validity or invalidity of a marriage does not rest on the opinion of one or the other party.

- Usually both persons in a marriage are people of good faith, but each may have a different opinion about whether the marriage was valid or not.

34. THE RELATIONSHIP BETWEEN MY FORMER SPOUSE AND MYSELF IS LESS THAN CORDIAL BECAUSE OF PAST EVENTS. CAN'T WE JUST SKIP LETTING HIM/HER KNOW ABOUT THIS? IF HE/SHE MUST BE INVOLVED, WILL YOU KEEP MY WHEREABOUTS A SECRET?

- Despite what may have happened in the past, your former spouse does have a right to know about these proceedings.

- However, you will never have to meet or have contact with your former spouse at the Tribunal.

- The Tribunal will not divulge your whereabouts to your former spouse. That information is confidential.

**35. WHY IS THE CHURCH REWARDING MY
FORMER SPOUSE WITH AN “ANNULMENT”?
AFTER ALL, HE/SHE WAS RESPONSIBLE
FOR THE BREAKUP OF OUR MARRIAGE.**

A *declaration of nullity* is not some sort of reward. It is a statement that a marriage was so badly flawed that it could not be considered valid according to Catholic teaching. If anything, it is a sad statement about marital failure.

**36. WHAT HAPPENS IF A FORMER SPOUSE CHOOSES
NOT TO PARTICIPATE IN THESE PROCEEDINGS?**

Each party has the right to participate in the proceedings. However, if the respondent chooses not to participate in the proceedings:

- The case will still move forward.
- The respondent will be kept informed of each step of the proceedings.
- A decision will be made based on the testimony at hand.

**37. WHAT IF A FORMER SPOUSE DOES NOT
WANT A *DECLARATION OF NULLITY*?**

Either party to a marriage has a right to ask a Tribunal to investigate his/her marriage despite the objections of the other party. The party who objects to a possible grant of nullity has the right to argue against it. However, the annulment proceedings cannot be stopped merely because one of the parties does not want a possible *declaration of nullity*.

**38. IS THE TRIBUNAL TRYING TO SHOW/PROVE
THAT ONE OF US IS AT FAULT FOR
THE MARITAL FAILURE?**

No. Neither party to a marriage is “on trial” in these proceedings. The question before the Court is: Is the bond of marriage binding, or not? Since the Church presumes that a marriage is valid and bind-

ing, it is the petitioner who must present sufficient evidence to overturn this presumption.

**39. ISN'T MARRIAGE A PRIVATE AFFAIR
BETWEEN THE SPOUSES?**

**SHOULDN'T THE SPOUSES BE THE ONES TO DECIDE
IF THE MARRIAGE WAS VALID OR NOT?**

Contrary to a popular notion, marriage is not a private event. It has social ramifications. It is contracted in a public forum in which two people promise certain things to each other. Certain religious and civil responsibilities arise from this public commitment.

**40. CAN A DIVORCED PERSON RECEIVE
THE SACRAMENTS?**

I HAVE BEEN TOLD THAT I AM EXCOMMUNICATED.

There is a great deal of misinformation circulating about this. A divorced person is not excommunicated, and a divorced person may receive the sacraments of the Church, including Christian burial. However, there is a problem when a divorced person enters a second marriage without a *declaration of nullity*. Essentially, that person is now living in a relationship that is not recognized by the Church.

**41. I JUST CAN'T IMAGINE THAT JESUS DEMANDS
SUCH AN INVOLVED PROCESS.**

**IT IS NOT FOUND IN THE BIBLE, SO WHY CAN'T THE
CHURCH JUST LET ME GET ON WITH MY LIFE?**

Since Jesus' time, believers have tried to put His teaching into practical terms. Jesus, in His teaching, did not always provide a blueprint to do this. The Church has sought throughout the centuries to implement His teaching. Jesus had a high regard for marriage and taught that divorce was not acceptable. Since marriage is a serious matter, a thorough procedure is needed to determine whether a particular marriage is valid or not.

42. A FRIEND OF MINE TOLD ME THAT THIS IS JUST A MONEYMAKING VENTURE OF THE CHURCH. HOW MUCH DOES THE CHURCH MAKE ON THESE *DECLARATIONS OF NULLITY*?

Your friend is misinformed. Recent statistics show that Tribunals in the United States overall were “in the red” more than \$3 million per year.

43. WHY IS THERE A FEE FOR THE CASE AND WHAT IS IT?

A fee is assessed to defray a part of the Tribunal expenses, such as salaries, office and utility expenses and postage.

- The one who petitions for a *declaration of nullity* is responsible for the fee.
- However, no one will be denied the service of the Tribunal because of an inability to pay the fee. Nevertheless, the principles of good stewardship require that the Tribunal evaluate requests for a reduction of a fee.
- In reality, the fee only covers one-half of the total cost of a case. The remaining half is paid by the Archdiocese.
- The fee schedule is included in this booklet for the Tribunal expenses and is not a donation or for a favorable decision.

44. WHY CAN'T I SET A DATE FOR A FUTURE WEDDING BEFORE A CASE IS COMPLETED?

- First, a Tribunal cannot guarantee that a case will be completed within a certain time frame.
- Second, one can never be sure that a favorable decision will be rendered in a case.
- Third, depending on the circumstances of a particular case, the person may be required to seek counseling or spiritual direction before a future marriage in the Church.
- At times some engaged couples were embarrassed because they set a date for a wedding, but the case was not finished when expected or a negative deci-

sion was given or a counseling requirement had to be fulfilled before a wedding. For the pastoral welfare of couples, a future wedding date may not be scheduled until a case is completed, that is, until a second affirmative decision has been rendered by the Court of Appeals.

**45. IF I WANT ANY MORE INFORMATION,
WHERE CAN I FIND IT?**

You may access the Archdiocesan website: www.archchicago.org (go to “Departments” and then click on “Tribunal”), or call the Tribunal weekdays between the hours of 9:30 AM and 4 PM at 312.534.8280. When calling this number you may press n° 1 for English, n° 2 for Spanish, or n° 3 for Polish.

ARCHDIOCESE OF CHICAGO METROPOLITAN TRIBUNAL FEES

In light of the principles of good stewardship, which call for each person to reflect on his/her financial obligations toward the Church, we have instituted the following policies regarding Tribunal fees.

1. APPLICATION FEE: \$50.

This is to cover the cost of printing, mailing, and handling of the *Application* at the Tribunal.

2. THE NULLITY CASE FEE: \$900.

The expense to the Archdiocese for handling such cases is **\$900**. We ask each Petitioner to decide how much of this fee he/she is able to assume. This amount will be discussed at a meeting with the Field Advocate, after your written testimony is received. The payment can be pro-rated in installments up to 24 months. Checks or credit cards are also accepted. Direct debit also is an option.

**NO ONE WILL BE REFUSED BECAUSE OF A GENUINE
INABILITY TO PAY ALL OR PART OF THIS FEE.**

3. FEES FOR OTHER TYPES OF CASES:

- *Documentary or Pauline*: \$500.
- *Favor of the Faith*: \$900.

4. ALL CHECKS ARE PAYABLE TO THE:

“Catholic Bishop of Chicago”

NOTE:

The \$50 **application fee** is the **only cost** for preparing and filing of the *Application*. No one should ask you for any additional fees.

