

FORMAL TRIALS OF NULLITY

Marriage comes about through the mutual consent of the parties. If the consent of one or other of the parties is seriously defective as defined by law, no marriage is formed. The process to determine whether binding consent existed or not is called a formal trial of nullity.

INITIATING A CASE

An individual who has been civilly divorced and wishes to petition for a declaration of nullity should contact a priest, deacon or other designated pastoral minister. The minister will assist the party in preparing the petition, using the preliminary questionnaire provided by the Archdiocese. Upon receiving a petition, the Tribunal reviews the material to determine if Los Angeles is competent to hear the case and whether there are possible grounds of nullity. If the Tribunal is not competent to hear the case, it will assist the Petitioner in presenting the case to a competent Tribunal. If no canonical grounds are evident, the petition may be rejected. If the Tribunal perceives some merit in the petition, it will proceed to an investigation.

It is extremely important that the proper address of the Respondent be given, since this person, as the other party to the marriage, must be notified and offered the opportunity to participate in the proceedings. Church law requires this. The citation of the Respondent, however, is done by the Tribunal. The pastoral minister should not seek testimony from the Respondent.

WITNESSES

The statements of the parties are generally not considered sufficient in themselves to prove nullity. Witness testimonies are also required concerning the circumstances surrounding the courtship, ceremony and married life. Witnesses should be chosen who knew the parties before and at the time of the marriage.

Expert witnesses provide valuable assistance to the Tribunal as well. Counselors, psychologists and psychiatrists can give insight into the emotional and developmental characteristics of the parties. Such insight is particularly important when a decision must be made regarding an individual's capacity to give binding consent. Whenever one or both parties consulted a counselor or therapist, the Petitioner should include the full name and address of the person, and the dates in which professional assistance was received. The submitting minister should never contact these experts directly. The judge in each case will determine whether such testimony will be requested.

THE HEARING

At times, the Tribunal may request that the Petitioner, the Respondent or one or other of the witnesses be interviewed by phone or be present at the Tribunal for further clarification of his or her testimony. Such interviews are conducted privately, that is, only officials of the Tribunal may be present during an individual's interview. At other times, such testimony may be taken via telephone.

THE DECISION

When the judge or judges conclude that no further investigation is needed, the case is brought to a conclusion.

The Defender of the Bond, who argues for the validity of the marriage, presents observations for the consideration of the judge(s). The judge then decides the case and informs the parties of the outcome.

APPEAL OF THE DECISION

The Petitioner, the Respondent or the Defender of the Bond may appeal the decision of the Tribunal. The appeal must be made to the Tribunal that granted the decision within three weeks (15 days) of the notification of the decision. The Tribunal then sends the appeal, along with the Acts of the case, to the proper appellate court. The appellate courts for the Archdiocese of Los Angeles are the Tribunal of the Diocese of Orange and the Roman Rota.

If a marriage is declared null by the Tribunal and no formal appeal against the decision is made within the allotted time, the decision of the Tribunal is considered ratified.

RESTRICTIONS

At times, because of the nature of the case, a restriction (*vetitum*) is placed upon one or both of the parties forbidding remarriage in the Church until certain conditions are fulfilled. The purpose of the restriction is to ensure that the circumstances which led to the nullity of the previous marriage do not recur in the proposed new marriage. If a party receives such a prohibition, no marriage in the Church may be

scheduled until the restriction is lifted by the Tribunal.

CIVIL EFFECTS

There are no civil effects to a declaration of nullity in the United States. It does not alter one's moral and financial obligations toward the other party or one's children. Nor does a declaration of nullity in any way affect the legitimacy of children born of the invalid marriage. The Church considers the children born of any presumably valid marriage, even if that marriage is subsequently found to be invalid, as fully legitimate.

LENGTH OF THE FORMAL TRIAL PROCESS

Each annulment case has its own unique circumstances; therefore, a definite time frame cannot be guaranteed. The time involved is governed by requirements of canon law and by the cooperation of the principal parties and their witnesses in providing sufficient testimony. The Tribunal strives to complete each case in a timely manner and in accord with canon law. That being said, cases in this Tribunal are normally completed within twelve months from the date of acceptance by the Tribunal. Incomplete information or a delay in submitting testimony can often prolong the process. The Tribunal will notify you if additional witnesses or information are needed.

Therefore, no date for a subsequent marriage should ever be set until the case is concluded and the decision is ratified. There is no guarantee that an affirmative decision will be reached.