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## PROCURATORS' GUIDELINES FOR SUBMITTING FORMAL CASE PETITIONS

These guidelines have been drawn up to guide priests, deacons, parish associates, and other procurators in assisting those who wish to approach the tribunal for a declaration of nullity of their marriage. These guidelines are have been designed as a checklist to be followed through the course of several meetings as the person *recalls* the marriage and the consent given to it, *evaluates* that recollection, and *records* it for the tribunal.

It is your duty to assist the petitioner in introducing the Petition, together with the statements of the Petitioner, the names and addresses of the witnesses, psychological, medical, and counselor's records, if any, and other pertinent documents. In the Archdiocese of New Orleans, priests and deacons have been approved by the Archbishop to serve as procurators.

**1. Invitation to Pastoral Care.** When a person comes to you that he or she wants to petition for a declaration of nullity of their marriage, do not reach too quickly for tribunal forms. Listen as the person tells his or her story. Ask questions *gently*. Ask too whether the natural obligations to the former spouse and children are being met, i.e., financial support, parental guidance, etc. Probe wisely. Listen carefully. Pass no judgment either on the petitioner or the respondent.

Before the close of the meeting, remind him or her of the following:

- The tribunal presumes that every marriage is valid. Invalidity must be proven. The burden of proof lies on the one who makes the allegation. (c. 1526 §1).
- The cause for invalidity had to be present at the time of the wedding. The behaviors that occurred later during the union may demonstrate a continued intention or a psychological problem unfavorable to marriage, but its presence at the beginning of the union must be shown. Divorce does not prove nullity.
- The petitioner must provide the documents requested, with complete and accurate names and addresses for the other party and all witnesses. However, neither the petitioner nor the procurator is to gather testimony from them. Statements, letters, or testimonies from witnesses and counselors are not required at this time. The witnesses and counselors will be contact in due course to provide statements to the tribunal.
- The rights of the respondent (the petitioner's former spouse) cannot be ignored. For example, the respondent has a right to be informed of the petition, to know what has been said, to offer his or her own arguments, and to provide his or her own witnesses. A disregard for the respondent's rights renders the process itself void. A current, complete address for

the respondent should be indicated, as the respondent is an equal party in the process. Contacting the respondent may be necessary for this tribunal even to consider the case.

- There are no guarantees that the petitioner will receive a declaration of nullity. A declaration of nullity is granted on the basis of facts, not on how deserving a person may be.

**2. Gathering the documents:** At your first meeting with the petitioner, inform him or her that the tribunal needs:

- An original or a certified (or notarized) copy of the civil marriage certificate or license.
- An original or a certified (or notarized) copy of the ecclesiastical marriage certificate.
- An original or a certified copy of the decree of divorce with a judge's signature on it. (Bills of Complaint or Property Settlements do *not* suffice).
- For *Catholics*, a Baptismal Certificate with *notations* issued within six months or a document indicating Reception into Full Communion, provided it indicates a date and place of baptism;
- For other *Christians*, a clear statement of the date and church of baptism. A photocopy of a baptismal record is appreciated.
- Photocopy of the pre-nuptial file if wedding took place at your parish. If the wedding did not take place in your parish, the tribunal will contact the parish concern for a copy of the pre-nuptial file.
- Counselor/Therapist Release Form if the petitioner has received treatment or counseling in matters related to the claim of nullity. If there is more than one counselor, use a separate form for each.
- A signed Agreement of Understanding.

The petitioner should take home with him or her the following documents:

1. Parties' information form.
2. Witness contact and information form.
3. Counselor Release form.
4. Agreement of Understanding.
5. Marriage Annulment Questionnaire.

**3. Answering the Marriage Annulment Questionnaire:** Answering and writing the marriage annulment questionnaire is often the most challenging part of the process. The petitioner should be given the "Marriage Annulment Questionnaire." Please take time to review this guide with the petitioner. Note that the questionnaire should be in the form of an essay, not in question & answer format. The points listed under each section of the guide are meant to help in recalling the marriage, not to limit the information provided. This essay should cover all the areas discussed in the guide.

The written answers to the questionnaire are the petitioner's first declarations to the tribunal. Facts should be stated, i.e., *examples* of intentions or behavior, not merely the petitioner's opinion. The tribunal must come to its own judgment based on the facts. General assertions must be supported by specific examples or references to the scope of a problem and its specific effects on the consent given to the marriage. Do not give the petitioner the petition form the first time you

meet with him or her. This should be given to him or her only after the marriage annulment questionnaire has been written and approved by you.

You need to review the draft form of the responses which he or she has written. This review is essential to clarify certain points or expand on certain points. For example:

- Has he or she been specific about the duration of the courtship and engagement? How did each of the parties define marriage at the time of consent?
- What were their intentions regarding permanence, fidelity, children, mutual support, etc.? Were there any doubts regarding the marriage? Did anyone express reservations? If so, why?
- Did one or both of them feel compelled to marry? Why? Did they recognize other options?
- Has the petitioner provided a thorough personal history, family background, and religious and ethical values that shaped his or her beliefs about marriage?
- Has he or she indicated who among their witnesses can support their assertions?

Rewriting and editing the marriage annulment narrative may take more than one visit or exchange of emails. Remember: if anything in the narrative remains unclear to you, it will be even more uncertain to the tribunal. A few moments spent in paying careful attention to the details as the case is being prepared will save much time and prevent delay or wasted effort later. It is after you have been satisfied with the narrative that you can pull up the petition form and assist the petitioner to complete it.

**4. Completing the Petition:** All the information requested on the petition form should be accurate and complete. All the information required on the petition form will be found in the Parties' Information form.

Pay particular attention to No. 5 of the petition. The statement of the petitioner therein forms the basis of his or her claim. This should be carefully written. A brief one or two sentence statement, culled from the petitioner's marriage annulment narrative and in the petitioner's words, should indicate the basis of the claim. These are examples:

- i. I didn't want children; or He/She didn't want children; or We decided to not have children.
- ii. When we married, he or she believed divorce would be an option.
- iii. During our courtship, I/my ex-spouse was unfaithful and this continued during our marriage.
- iv. I felt that it was my obligation to marry him/her because of the pregnancy.
- v. I did not want our child to be born out of wedlock.
- vi. Neither of us understood the true nature of marriage at the time of the wedding.
- vii. I married to get out of my abusive home environment.

The statement of the petitioner is what the tribunal is being asked to prove. A copy of this petition will be sent to the respondent. To be avoided are defamatory remarks about the respondent, the cause for divorce, or any reference to "see attached."

The claim should not also be vague. "There is also a reason why the judge should require that it not be vague; in this way it can be understood by a 'lay person.'" (*coram* Burke, 15 November 1990, *Studia Canonica* 25 (1991) p. 515).

In No. 6, list only the names or identifying titles, e.g., mother, sister, of the potential witnesses so that the other party may know who is being suggested. Full names and addresses are to be noted on the Witness Contact and Information Form.

If a party wants his or her case to be remitted to the abbreviated process in which the Archbishop becomes the judge of the case, each of the parties who want their former marriage declared null is separately and individually to answer the marriage annulment questionnaire, complete and sign his or her petition, and submit their respective marriage annulment narrative and petition to the tribunal through one procurator or through their different procurators.

Another method by which a petition can be remitted to the abbreviated process is for the petitioner to submit all the required documents and a single petition. After the tribunal has received and reviewed the documents and petition, if the petition is considered for trial, the respondent will be cited. If the respondent agrees to the petition and the claim made on number 5 of the petition, the case may be remitted to the abbreviated process.

**5. Completing the Witness Contact and Information Form:** The names of persons who witnessed various important events mentioned in the narrative, their full names and current, complete addresses should be noted on the form, *not* within the narrative. If a witness will have difficulty participating, perhaps because of language, writing skills, or physical problems, indicate this so that the tribunal can make special arrangements. It is not permissible to include witness testimony at the time of submitting the petition. They will be contacted due course to provide their testimony.

**6. Completing the Procurator's Form:** Have the petitioner complete, sign, and date the procurator's form. The procurator must likewise sign and date the form. The judge, when the form gets to the Tribunal, signs last.

**7. Confidentiality:** Every case is personal and confidential. Those involved are to avoid doing or saying anything that would break the confidentiality, which is binding on the parties and on the procurator and parish associate helping the petitioner prepare his or her case, and on the Tribunal staff.

**8. Checklist – Please be sure to include the following documents and mail to the address above.**

1. The Petition, which has been completed and which includes the reasons for the alleged nullity of the marriage and the names of the witnesses.
2. The Petitioner's Narrative to the Marriage Annulment Questionnaire.
3. The Parties' Information Form completed.
4. Witness Names and Information Form with complete, current mailing addresses for the witnesses.
5. Counselor/Therapist Release Form signed by the petitioner. If there is more than one counselor, use a separate form for each.
6. The Agreement of Understanding signed by the petitioner and the procurator.
7. The Procurator's Mandate.

8. For *Catholics*, a Baptismal certificate *with notations* issued within six months or a document indicating Reception into Full Communion, provided it indicates a date and place of baptism.
9. For other *Christians*, a clear statement of the date and church of baptism. A photocopy of a baptismal record is appreciated.
10. An original or a certified (or notarized) copy of the civil marriage certificate or license.
11. An original or a certified (or notarized) copy of the ecclesiastical marriage certificate.
12. An original or a certified (or notarized) copy of the *final* decree of divorce with a judge's signature on it. (Bills of Complaint or Property Settlements do *not* suffice).
13. Photocopy of the prenuptial file if wedding took place at your parish.
14. Any freewill donation made.

If you need copies of "Marriage Annulment FAQ", please contact us. Copies of this booklet can also be given to petitioners.

If you have any questions, kindly give the Tribunal a call at 504-861-6291.

Rev.: 1/11/22.