

## **Explanation of Decree of Nullity Process**

*The theology of the Roman Catholic Church as well as Canon Law describe marriage as a "covenant by which a man and woman establish between themselves a partnership of the whole of life which, by its very nature is ordered toward the good of the spouses and toward the procreation and education of offspring, and which, between the baptized, has been raised by Christ the Lord to the dignity of a sacrament" (canon 1055, Gaudiam et Spes, 48).*

*For this reason, the Catholic Church views the reality of divorce with great seriousness and considers it only to be a last resort taken at times to safeguard the rights or well-being of a spouse or children under secular law. As such, the Catholic Church recognizes civil divorce only as indication of the discontinuance of the lived experience of a couple's marital relationship. Civil divorce has no power to sever the marital bond itself, the bond which is created between the two parties on the day of their wedding through their mutual exchange of consent. Rather, the Catholic Church presumes that once consent is exchanged every marriage is valid and binding until the contrary is proven.*

### **Formal Declaration of Nullity Process:**

For those approaching the Jackson Tribunal, after receiving a civil divorce of a valid marriage, one party, known as Petitioner, must go through a Decree of Nullity formal investigation. The inquiry centers on the time leading up to and the date of the wedding. The focus is attempting to discern the truth concerning the state of mind, intentions and capacity for consent which each party possessed at the time of marriage. In the end there will be an official judgment declaring in the affirmative or negative to the petition. If found in the affirmative the marriage is invalid, that is declared null and void, in regards to the spiritual bond of marriage as understood in the tradition and teaching of the Roman Catholic Church. If found in the negative the marriage bond is considered spiritually valid.

### **Stage One: Application (approximately 1 month)**

The Petitioner speaks with their Parish Priest or Pastoral Minister and completes an initial application form. After reviewing the application, the Parish Priest or Pastoral Minister sends the application, documents (marriage license, divorce decree, updated baptismal certificate) and the names and addresses of three witnesses to this tribunal.

The Judicial Vicar will ascertain the type of case that is presented. If a formal case then he will write to hear from the Worthy Defender of the Bond, person defending the bond of marriage, and the Respondent, who is your ex-spouse, about the application presented.

After 15 days working days, the Judicial Vicar makes a series of decrees accepting the case. He sends an abbreviated set of questions to the witnesses.

### **Stage Two: Investigation (depending on witnesses responding 2 – 8 months)**

The Judicial Vicar requests testimony from witnesses and Respondent. If testimony is vague then the Judicial Vicar attempts to solicit more information or ask for new witnesses. At least one good witness is required. After collection of the testimony the Judicial Vicar

may call on the assistance of a psychological or psychiatric Court Expert. Their opinions are used solely to assist the Judge in asserting moral certitude. (The case can get bogged down because of lack of responses from witnesses or the witnesses being too vague. Promptness and thorough answers are most appreciated).

### **Stage Three: Publication of Acts (approximately 3 months)**

After all information has been gathered, the Petitioner, Respondent and/or any appointed Procurator/Advocates have 21 days to request to read and comment on acts of the case. All information collected is presented to the Defender of the Bond, who looks at the case and points out any evident flaws in the Petitioner's petition.

### **Stage Four: Review and Final Judgment (1 month, if no complaints or appeals)**

The presiding Judge considers the pertinent law regarding the case as well as the facts which have been submitted in evidence and writes a substantial brief with moral certainty an affirmative or negative judgment. Each party will be given an opportunity to review the judgment through their Procurator/Advocate. Either party or the Defender of the Bond has 15 days after receiving notice of the final judgment to make, if substantive, a complaint against the nullity or argue that the case should be appealed to a higher court.

A complaint will be dealt with immediately with this Tribunal to determine if substantive. All appeals go to the Archdiocese of Mobile and they can ratify or call a retrial.

### **Important Facts**

Just as every marital relationship is unique, so also is every formal case. Therefore, it is not possible to give any estimate regarding how long a formal investigation will take to complete. However, the sooner that witnesses' testimony comes in the quicker a case will move to judgment

There is no guarantee of an affirmative decision. The Petitioner has placed a petition alleging the invalidity of marriage. It is up to the Judge to reach moral certainty whether the facts of the case agree with the law of the church that the marriage is invalid.

Please be advised that no new marriage date may be scheduled in any Catholic Parish until the entire process is complete, a declaration of nullity has been given and any potential substantial complaints or appeals are made.