

**RESPONDENT'S GUIDE
TO
CATHOLIC
ANNULMENTS**



Carole R. Bishop

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by
Carole R. Bishop, BA, MA

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INTRODUCTION

If you are reading this manual, you are probably a “Respondent” who is seeking some guidance. Respondents often have a long, lonely fight against the huge, wealthy Roman Catholic Church institution. Save Our Sacrament (SOS): Reform of Annulment and Respondent Support (RoA&RS) is a non-profit network created to provide guidance to the respondent who most often is caught off-guard and wishes to preserve the reality of their sacramental marriage.

A respondent is a person against whom a petition for annulment has been issued -- the person in the annulment proceedings who is offered the opportunity to defend the sacramental validity of the marriage. The respondent receives a letter saying that her or his former spouse has asked or “petitioned” the Catholic Church for an annulment. The respondent must then “respond” to the marriage tribunal that received the petition. For many respondents, the first reaction is total perplexity, followed by a feeling of devastation. For non-catholics who receive this letter, their first reaction is an affront, followed by righteous anger. We hope you realize that you are not alone. This guide is designed to help you through all the steps of the process. The steps described here may be handled differently from one diocese to another, but your rights under Canon Law should remain constant. Canon laws are ecclesiastical laws recognized and approved by the Catholic Church for use in governing various activities, such as marriage and the priesthood.

When your former spouse decides to (re)marry in the Catholic Church, the Church requires that he or she must first obtain an “annulment” from the prior marriage to you. Without an annulment, a remarried Catholic is not permitted to receive the sacraments (communion/ Eucharist), because the Church does not recognize the divorce from the first spouse. The Church assumes that the marriage you shared is still binding (“valid”); your local tribunal may appear to believe otherwise. Your former spouse is “petitioning” a Diocesan marriage tribunal to review the marriage to see if there is any reason (“cause” or “grounds”) that would allow the Catholic Church to issue a Declaration of Nullity of the marriage.

The Catholic Church claims it cannot not actually “annul” a marriage per se, but can only “declare” a marriage non-binding in the eyes of the Catholic Church, usually after that marriage ended in a civil divorce. Many Catholics know that the sacrament of marriage is between themselves and their God, and therefore they believe that no tribunal can prove otherwise.

The entire annulment process is based on canon laws. Although the Code of Canon Law applies equally to all tribunals (Canon #1402), different dioceses may approach the same requirement in a different manner, apparently interpreting canon laws from their own perspective. A familiarity with the Code of Canon Law is necessary to defend your sacrament and “fight fire with fire.” Interestingly, the term “annulment” does not appear in the Code of Canon Law; but many tribunal officials nevertheless use it interchangeably with the term “Declaration of Nullity.” Numbers in parentheses throughout this guide are canon laws.

If you need access to the Code, you may find it on various internet sites by typing “Code of Canon Law” in the search window of your internet service provider. We recommend that you use this guide as a supplement to, and not a substitute for, the complete Code of Canon Law. This guide only addresses the U.S. tribunal system and is designed to cover the most common procedures that all tribunals *should* use. However, canon laws are universal and apply to all countries where Roman Catholicism is practiced. If there are any discrepancies between this guide and the Code of Canon Law, the Code takes precedence.

The information I present here is a summary of individual experiences, my own and the many respondents SOS has advised, to which I have applied the pertinent canon laws. I am not a canon lawyer, but I am a retired colonel from Army Intelligence and a former respondent who has gained an in-depth understanding of the Code of Canon Law. I channeled my original frustration into the constructive process of writing this guidebook.

Every person who is working for SOS has found meaning in outreach to other respondents. In the many years since the first edition of this guide was published, the advisors at Save Our Sacrament have assisted more than 600 respondents. Our thanks go to respondents whose stories, insights and perseverance have helped us to support others. SOS is seeking case histories to expand its knowledge in order to help other respondents. If you would like to send us your story and experiences, this material can provide additional guidance to others like yourself who may have encountered unusual situations with annulment. Your name will not be used.

The guidebook has five appendices. Appendix A is a “Flow Chart” depicting the divergent paths that cases may take through the tribunals’ maze. Appendix B is a short list of books that we at SOS found very helpful. Appendix C provides a brief introduction to the Code of Canon Law book use by all tribunals. Appendix D provides the citations of most of the canon laws cited in the text. Appendix E contains a glossary for easy reference of many unfamiliar terms.

Carole R. Bishop
June 2009

As you read this guidebook, bear in mind Proverbs 19:20, which says: “Listen to advice and accept instruction, and in the end you will be wise.”

CHAPTER 1: TRIBUNAL OF THE FIRST INSTANCE

Tribunal Competency (Jurisdiction or Venue)

If you do not hear from a relative or your ex-spouse about a pending annulment, you will probably be shocked or at least mildly surprised when you receive a letter from a Judicial Vicar of a Catholic diocesan marriage tribunal announcing that your ex-spouse has petitioned for a declaration of nullity of your marriage. The tribunal may ask if you have any objections to a particular tribunal exercising its “competency” to proceed with the petition. Competency implies “jurisdiction.” Several tribunals may be competent to hear the case. The Judicial Vicar is not asking if you object to the annulment, only to a particular tribunal trying the case. You will normally have only two weeks to reply to this letter. You have several options here:

- 1) If you do not care about preserving the validity of your prior marriage, you can ignore the tribunal’s letter.
- 2) You can agree to that particular tribunal trying the case.
- 3) You can object to that particular tribunal and recommend another one. Your only alternatives to option #3 are:
 - a) the tribunal of the diocese where your former spouse, the petitioner, lives;
 - b) the tribunal where you (the respondent) live;
 - c) the tribunal where the marriage took place; or d) the tribunal where the majority of the evidence is located or where most of the witnesses live (#1673).

If the tribunal issuing the letter is considered “competent” they will probably not offer you alternatives, although you could still request a change of venue, if you wish. The only time that they *must* offer you a choice, is when the diocese is the one where the petitioner lives or the one where the majority of evidence is located. If the diocese claiming competency is the one where you got married or where you live, then the tribunal is not obligated to offer you an alternative. You may obtain the advice of a Catholic Church canon lawyer at this point, however once you agree to participate in the proceedings, the tribunal should appoint an advocate to assist you. Feel free to contact SOS at anytime for advice or just a sounding board for your ideas.

If offered a choice, we recommend choosing the tribunal in the diocese where you currently live to allow easier access to the proceedings. After making a choice, write a courteous letter back to the tribunal, letting them know of your decision and/or recommendation. *However*, if you do not give a valid reason, then they may not accept your recommendation to move the case. There is no absolute guarantee your request will be honored, but it never hurts to ask. Two possible reasons might be: 1) “I believe there could be a conflict of interest due to the petitioner’s probable familiarity with diocese personnel.” 2) I believe that my rights may be denied due to the lack of proximity to the proceedings.”

The Summons or Citation

For some respondents, the Summons will be the first letter they receive, if there was no requirement to establish tribunal competency. For others, once the diocese makes a decision as to which tribunal will hear the case, that diocesan marriage tribunal (now referred to as the “Tribunal of First Instance”) should send you a letter “summoning” you to the trial. They may ask you to complete a short form to facilitate your response. They will have assigned a number to identify the petitioner’s case. Usually the first two letters represent the diocese, the next two numbers represent the year, then three or four more digits represent a one-up number. For example, case #AU-95/160 originated in Austin, Texas in 1995 and was the 160th petition which that tribunal accepted that year (in the June-July time frame).

This short form represents a Summons or a Citation (#1507, #1508) that asks whether or not you are willing to give “testimony,” and if so, whether by personal interview or by questionnaire (#1507), although some dioceses may not offer the interview option. ***The petition is supposed to be included with the citation*** unless the judge determines there is a *grave cause* not to include it. (#1508) The petition, (also referred to as the “libellus”) written by your ex-spouse, should include facts and proofs of a general nature that could “prove the allegations” that your marriage was invalid (#1504). This letter may ask: "Are you **For, Against or Indifferent** to a possible Declaration of Nullity being issued?" The tribunal just wants to know how interested you are in the annulment proceedings. It is very important to read the libellus before you give any testimony.

You should be asked if you agree to the grounds cited. Often the petitioner will name you as having a lack of discretionary judgment concerning the essential elements of the marriage. If you state that you disagree with the

ground, they may go fishing to find another. You could say: I disagree with this ground or any ground used to try to annul my marriage. If you are named, then you could say: I disagree with the half of the ground that names me as having lack of due discretion.

Most tribunals would probably prefer an unconcerned respondent, since without any opposition, it is more likely that the tribunal will be able to grant the petitioner's request for an annulment. If you do not respond, the tribunal can proceed without you (#1510, #1592). Most tribunals are decidedly on the side of the petitioner. Some respondents never reply. Those who do are deeply concerned about the integrity of their sacramental marriages and do not want their marriages declared invalid.

Protestants and other non-Catholics may justifiably feel affronted or extremely irate to learn that the Catholic hierarchy assumes jurisdiction over a non-Catholic marriage between two non-Catholics, despite Canon #1 that states: "The canons of this Code regard only the Latin Church." Here "Latin" means "Roman" as opposed to "Orthodox." If the canons do not apply to the Anglican Church or the various Eastern Orthodox Churches, they should not apply to Protestantism or Judaism either; but the Catholic Church receives the right to review your marriage from the petitioner, your ex-spouse.

If you choose to participate in the annulment process, fill out the form and return it to the tribunal. *However*, be cautious about officially signing any affidavit or document, other than your own letters. Some respondents who signed this summons form found out later that they signed away their rights to read the actual petition. This happened because their signature apparently allowed their appointed advocate to assume the dual role of procurator-advocate. The procurator is a manager (or agent) of the tribunal's affairs, who is not necessarily on your side. He or she has a sort of "power of attorney" that allows him/her to act when the respondent cannot or chooses not to act. For other respondents, the word "procurator" was never mentioned in any correspondence. Before signing any official documents issued by the tribunal, we recommend you call the tribunal and ask exactly what you have to do to read the petition, if it was not provided with the summons. *It will be easier to defend your marriage if you know the allegations.* Some tribunals may not let your advocate write a brief on your behalf, if you tell the tribunal that you don't want that advocate to also serve as procurator, so check with the tribunal first.

Annulments are classified in the Code of Canon Law under "Special Processes" (along with cases declaring nullity of sacred ordination). The provisions for the "Contentious Trial" also pertain to annulments. The "penal process" is discussed in a different section of the Code (#1717-1731). For penal cases, there is always an "accused." Respondents in annulment cases often feel "accused," but "punishment" is not meted out to respondents, when annulments are granted, so the provisions of the penal process may not apply to annulment cases. This could also help to explain why the respondents are not called "defendants" as in civil trials. Apparently the term "respondent" is not so negative-sounding to the Catholic Church.

The Acknowledgment Letter from your local tribunal

Within about a month, you should then receive a letter from the tribunal acknowledging your wish to participate actively in the case. This letter may also name the Judge, Defender of the Bond, the Notary and the Advocate for the Respondent whom the Bishop has appointed to the Court. The petitioner will also have an advocate, whose name the tribunal may reveal to you in this letter. Respondents are often unaware that "Advocate for the Respondent" means a person designated to help *you* with your case. Even though you are authorized to have an advocate appointed to represent you, there is no canon law requirement for those individuals to actually correspond or communicate with you. And anything you may inadvertently blurt out to your advocate could end up in the testimony. But most respondents are lucky enough to get an advocate who truly cares and wants to help. Only a few respondents have been told that the advocate will do only what is required, which is mostly to ensure that you have been duly notified and that your testimony will be presented to the judge. Since you are not permitted to attend the "trial," your advocate represents you.

In cases that are heard by a collegiate tribunal (3 judges), the president of the collegiate tribunal may appoint an "auditor" (#1428), whose function is to collect the proofs and hand them into the judges. The auditor could be given leeway by the presiding judge to determine what proofs are to be collected. When a collegiate tribunal cannot be established, the judge may appoint an auditor to assist the sole judge (#1425). Cases sent to an appellate court must be heard by a collegiate tribunal (#1441). Some respondents have learned *not* to trust the auditor, who is not necessarily partial to the respondent. One respondent learned that the auditor was actually one of the judges hearing the case, and felt entrapped and intimidated. This same respondent was told by the auditor that either the

petitioner or the respondent usually turns out to be a liar. This type of behavior seems highly unethical, as canon #1586 clearly states that “the judge is not to formulate presumptions which are not established by law.”

The tribunal should also tell you in this acknowledgement letter that Canon Law #1487 states you have the right to object to any member of the Court. We at SOS recommend that you meet with your appointed advocate before deciding whether or not you want to object to any member of the Court. An advocate is to be a doctor in canon law or *otherwise qualified* (#1483). The person should be someone whom you will trust to ensure that the tribunal respects your canon law rights to the letter of that law. It is of greater benefit to you to be able to meet with your advocate, than it is to rely upon long-distance phone conversations. One respondent knew for example, that the petitioner’s advocate was the priest who performed their pre-marital counseling. In such a circumstance, you should probably object, as that priest should not be against the marriage which he helped to bring about many years prior. If you object to the appointed advocate, you may, for a “grave reason,” have him or her dismissed (#1487) and request another advocate (#1481).

This letter should also inform you of other rights, such as the right to present names and addresses of witnesses to support your testimony (#1552), the right to know the names of the petitioner’s witnesses (#1554), and the right to appeal (#1628). The letter may name the Appellate Court in the next higher or regional diocese in the Catholic Church hierarchy. You have the right to appeal directly to the Rota in Rome (#1443), but many dioceses will not tell you this fact. Please see Chapter 2 of this guide for more information on the subject of appeals. The tribunal may or may not reveal at this point what “grounds” they are considering in order to grant the petitioner’s request for an annulment (#1504). That is why it is important to be able to read the petition early in the case.

The letter may also explain to you that the proceedings are a church-related matter that do not change the “civil legitimacy” of any children born of the marriage. However, if the judge declares the marriage invalid, many respondents believe their children will then be considered products of a non-sacramental and therefore unsanctified union. When two people share marriage vows, their intent is to create a sacramental union most often for the precise purpose of producing children in a situation approved and blessed by the church of their particular faith (#1055-1057).

Your Questionnaire from the Tribunal

A lengthy questionnaire usually accompanies this acknowledgment letter from the tribunal. Some tribunals may try to convince the respondent to come in for a face-to-face discussion. However, we recommend you fill out the questionnaire instead of opting for a personal interview. You do not have to answer every question. If you received the petition, we recommend that you only answer questions that address the allegations in the petition.

A tribunal may interpret your verbal communication to fit its views, or you may not think of everything you want to say on the spot, and you could even lose your composure. Therefore, it is preferable to produce your own written statement and conclusions, especially since we believe that some tribunals already bias the questions against the sacramentality of marriage. Here are some examples: What weaknesses did either of you bring to the marriage? Why did your marriage fail? What were the earliest problems in the marriage? What were the main complaints you had about your spouse or that your spouse had about you? Did either of you feel it was all right to get a divorce if the marriage didn’t work out as planned?

One respondent wanted to write a separate narrative, wishing to avoid some of the questions. If you do not use their recommended format, the tribunal might be inclined to ignore your reply as non-responsive. This does not mean you have to answer every question. And it does not mean you have to print the answers by hand in the small spaces usually provided. Use your computer word program, but just be sure that the questions follow the format given. If you intend to hand-write your answers, make several blank copies first, so you can start over if you want to change something. The answers to this questionnaire comprise your “testimony,” your chance to tell “your story.” Feel free to use additional sheets of paper beyond what the diocese may give you, or use a computer word program. Always number your pages in the following manner: “Page 1 of 12 Pages.” This way, none of your testimony can be eliminated.

Because the diocese may be “fishing” for a cause or canon law “ground” upon which to base the annulment, *do not give vent to any anger!!!* Our recommendation is to write only the positives that occurred in your marriage, manifesting its sacramentality. Maintain a professional attitude. We realize that some emotion may creep into your writing. When revising your first draft, omit anything emotional and save it for a future letter. Keep in mind the moment of your vows. If you think that lack of due discretion (#1095) will be the grounds (see The Grounds

section of this guide), then cite every bit of evidence of the petitioner's maturity (and of your own maturity) up to the time of the vows and continuing into the marriage. Get specific. Give dates, names, etc. For example, one respondent's ex-spouse was an elected president of a college organization at a respected professional university at the time of their engagement. That is an acknowledgment by peers that the individual was more mature than most students in the class.

If you trust your advocate, we recommend you discuss the questions with him or her prior to completing your questionnaire. You usually have 30 days, but do not hesitate to ask for an extension. Tribunal personnel must have your testimony since you agreed to participate in the proceedings. Accompanying the questionnaire may be an affidavit, which is a statement of tribunal policy that you have told the truth and that you agree to keep all information confidential (#1455, #1531, and #1532). They cannot absolutely require you to sign it. You have a right to tell *your* story to whomever you wish, and a tribunal's policy cannot legally bind you. The Catholic Church cannot "sue" you in civil court.

One respondent was asked "What will you do if the Tribunal finds for nullity?" This is your golden opportunity to say up-front that you would be making an appeal to the highest court possible. If this or a similar question is not on your questionnaire, then you could try to fit this information into your cover letter or another answer somewhere. Some tribunals might wish to avoid their judgments being reviewed by the Rota, so they could find in your favor and not grant the annulment.

Your Witnesses

You have the right to submit the names of witnesses to support your testimony (#1547, #1552). Often the petitioner may list some of the same people who may have been your mutual friends when the two of you celebrated your marriage. We suggest that prior to sending the tribunal your list of witnesses, you personally contact each one to ascertain if he or she is willing to testify on *both* your behalf and that of the petitioner. This is important because you want witnesses to testify that the petitioner was also a mature individual with no psychological problems, who knew exactly what a good marriage involved.

It is also important to contact your potential witnesses, in case the tribunal may summon them in person (#1557, #1558), and you need to know if they would be willing to travel. Tell your witnesses that all expenses they incur and all losses they sustain will be reimbursed (#1571). It is more probable, though, that the tribunal will send the witnesses a questionnaire similar to yours. Tell them to make extra blank copies if they are going to hand-write their answers. Let them know they may use a computer. Tell them to number the pages in the same manner you did: "#x of xx pages."

Witnesses may also be asked to swear an oath to tell the truth, but if they refuse, the judge will take an unsworn statement (#1562). Your witnesses may have an option to allow or disallow their testimony to be read by you and the petitioner. If you want to read what your witnesses said about you and your former spouse, inform them in advance to check that option on their questionnaire, if that option is presented. There is no canon law that I can find that clearly states you are not permitted to "coach" your witnesses. Do not tell them to lie; let them give their answers in their own words. But you can certainly give them direction, explain the case and the probable grounds.

You do not have to submit names of witnesses. The burden of proof lies with the petitioner (#1060, #1526, #1585). One respondent felt that the best opportunity to make the case is during the "rebuttal phase." See the section called "Your Rebuttal" later in this chapter.

Your Appointment to Read the Petitioner's Questionnaire

In most dioceses, once the marriage tribunal has gathered all the testimony (questionnaires and other evidence, such as psychological records if release was authorized) from you, the petitioner and all witnesses, it will probably take them about three to six months, if you have not asked for any extensions, until they contact you again. The tribunal will then offer you an appointment to read the evidence, which are the petitioner's questionnaire and witness statements (#1598). If the day and time do not suit you, arrange for a mutually convenient appointment. If the diocese handling the case is located several states away, they should arrange for you to read the evidence at a diocese nearest you. Go to the appointment armed with plenty of paper and pencils for note-taking. Do not rely upon the tribunal personnel to furnish these supplies.

The Petitioner's Questionnaire (The Evidence)

When you arrive at the tribunal, the officials will probably expect you to sign another affidavit stating your agreement to keep all information submitted by the petitioner and witnesses confidential (#1455). If you do not sign, they may not show you the evidence. However, canon law #1598 states that "the judge by a decree must permit the parties and their advocates, under penalty of nullity, to inspect at the tribunal chancery the acts not yet known to them." Consider including a phrase to the effect that you are signing against your will or under duress, if you feel coerced. The requirement to respect the confidentiality of the petitioner's testimony is understandable; however, your own testimony is your property. Remember the Catholic Church cannot sue you in civil court over any annulment-related issues. Several respondents have published their annulment story in a local newspaper.

At this time, you will be able to read what the petitioner said about you and your marriage. *Be prepared* for some real unpleasantness. Many respondents have reported feeling frustrated, cheapened, lied about, etc. It is difficult not to lose your composure, if you are caught off-guard by what you read. The tribunal will authorize your advocate his or her own copy upon request (#1598). If your advocate is not "well qualified" in canon law, he may not know of this right to request a copy. One respondent had an advocate who was an old parish priest who knew absolutely nothing about canon law; but the respondent did not know at the time that the advocate could have been replaced (#1487).

We recommend you take extensive notes, since you have the right to submit a rebuttal (called "additional proofs" in canon law) to anything the petitioner claimed (#1598, #1601-1603). Although there is no canon law stating they must allow you to take notes, very few respondents have been denied the opportunity. Since you have the right to submit additional proofs" (#1598 §2), insist that you may take as many notes as you need. Don't be intimidated when taking notes. One respondent reported that the Judicial Vicar kept staring and was upset by the note-taking. Because the reading of many pages of testimony takes a lot of concentration, you don't need your advocate there as a distraction. The advocate can read the testimony at his or her leisure. The witnesses' testimony may also be available, although the tribunal may have eliminated names, as one respondent was told, to protect the "innocent."

The Grounds

The original concept of annulment was based on reasonable "impediments" that render a person incapable of validly contracting a marriage, such as extreme youth, (#1083), impotence (#1084), bigamy (#1085) and consanguinity (blood relatives, #1091). When a person "suffers" from one of these impediments, he or she is considered incapable of consenting to marriage. Thus, if a lack or defect of consent was present at the time of the marriage, it could be declared invalid. For example, if a person deceived or tricked another into marriage, consent was lacking (#1098). If a couple intentionally excluded any essential element of marriage (such as openness to children), then consent was lacking (#1101). Canon #1096 is often overlooked but is essential. It states that for consent to exist, the parties must not be ignorant that marriage is a "permanent partnership ordered to the procreation of offspring." Rare are the couples who do not know that this is what marriage is all about.

One respondent's ex-spouse had undergone sterilization many years after the wedding, but it was still cited as a ground for annulment, despite the fact that the couple had produced several children. One explanation for this situation is that the Catholic Church believes in "natural law," and therefore apparently thinks birth control is artificial. Another respondent who lost her case due to the petitioner's vasectomy was surprised to learn that the official annulment decree actually stated that the petitioner "deliberately seriously mutilated himself." Imagine if this respondent were to publish her "annulment story" and include a copy of the Declaration of Nullity in the book! The Catholic Church could not sue her in civil court, due to her First Amendment rights of freedom of the press, and the separation of church and state.

Canon #1095 is a loophole or catch-all, popularly called a "loose canon" that tribunal judges use most often today when no other impediment is obvious. Basically it states that if a person suffered from a "**grave** lack of discretionary judgment concerning the essential matrimonial rights..." consent was lacking (#1095). Common sense clearly indicates that it is very difficult to prove many years after the wedding day, that one partner or the other in a marriage had been suffering some minor psychological problem at the time the couple celebrated the marriage. The adjective "grave" is the key word in this canon. American tribunals are apparently overlooking the fact that "grave" should suggest a major psychiatric problem or true mental illness, as opposed to very minor, everyday issues like social drinking; being raised by a single parent; or marital squabbles over money or the

children. For couples who underwent the requisite *pre-marital counseling* and were approved by the priest/counselor, *no defect was found at the time of their wedding* (#1066).

The divorce is not proof that either party was incapable of giving consent to the marriage. A person's capacity to give valid consent should be based on two considerations: Is the person's Mind able to make a judgment, *and* is the person's Will free to choose a particular course of action? When a person lacks discretion of judgment, he or she does not possess the ability to consent. Lack of discretion should be a combination of several of the following: severe immaturity; extreme youth; personality disorder; a premarital pregnancy or abortion; too brief of a courtship; troubled childhood in a problem home; family pressure to marry; membership in some bizarre anti-social group or subculture. One of these factors alone would not necessarily be enough to cause the person to totally lack the capacity to give valid consent, but could be enough to cause the person to have some difficulty in giving consent. Canon #1095 should focus on the individual's "incapacity" to give consent to marriage due to a "grave" abnormality (or combination of serious problems), not on the individual's "difficulty" to give consent due to one minor predicament the person may have faced in childhood or young adulthood.

If the tribunal cites Canon #1095, they may ask you to authorize the release of any medical or psychological records to them. However, they cannot require you to do so (#1546). If you feel the records may harm your case, do not send them. You do not have the burden of proof; the petitioner does (#1060, #1526, #1585). They may ask you to submit to a psychological evaluation by a so-called tribunal-appointed expert. We recommend that you decline this offer. You are not obligated to undergo any examinations. Often the "experts" are not licensed or board-certified in clinical psychology. If a so-called expert issues a negative diagnosis based on your questionnaire and without interviewing you, you could try to sue that "expert" in a civil court. You cannot sue the Catholic Church in a civil court, due to the First Amendment of the US Constitution. Petitioners who happen to be in possession of your medical records will likely turn them over to the tribunal. The tribunal receiving such documents should probably get your permission to use them, but don't count on it. If the petitioner has those records, the tribunal may feel that he or she has the right to possess them. One respondent thought that the tribunal could be sued for using illegally-obtained private medical records, in violation of Privacy Act laws.

Another category of grounds exists, but is used less often. These are known as defect of form marriages, based on the actual celebration of marriage. If a couple was not married in the presence of a parish priest or an appropriately delegated official, then form was lacking (#1108). If the priest had not satisfied himself of the parties' freedom to marry, form may be lacking (#1114). Some tribunals use the "lack of form" grounds to automatically annul non-catholic marriages. Other tribunals reviewing non-catholic marriages will skip over this canon and proceed as they would for catholic marriages. Defect of form cases are often handled as documentary processes instead of ordinary processes (via a trial).

Tribunals can exploit whatever information or facts you or the petitioner may have intentionally or *inadvertently* revealed in the questionnaires, and they may use that information to cite Canon #1095 as the grounds. For the majority of respondents that SOS has advised, this is the ground used. The Vatican has released the following statistics: "For the year 2002: of the 56,236 ordinary hearings for a declaration of nullity, 46,092 received an affirmative sentence. Of these, 343 were handed out in Africa, 676 in Oceania, 1,562 in Asia, 8,855 in Europe and 36,656 in America, of which 30,968 in North America and 5,688 in Central and South America." (Source: "Presentation of Instruction About Norms in Marriage Cases", Vatican City, Feb 8, 2005 (VIS), posted at http://www.vatican.va/news_services/press/vis/dinamiche/a0_en.htm). It is likely that the majority of these 30,968 annulments granted in North America were based on Canon #1095. Note that the appellate courts do overturn about 10,000 cases per year.

Your Rebuttal ("Additional Proofs")

After reviewing all the evidence and pertinent canon law, prepare your rebuttal (#1598 §2, #1603). This may be your last chance to offer your arguments and point of view. But just re-writing your original "story" may not be enough. You should introduce "additional proofs" to strengthen your arguments. If, in retrospect, your questionnaire seemed inadequate, and if you only submitted 2 or 3 witnesses, now is the time to really make your case by bringing in "reinforcements" -- more witnesses, more evidence, and a list of procedural errors (breaches of canon laws), in addition to correcting any lies and misinformation in the petitioner's testimony. The majority of respondents we have advised have reported that the petitioner's testimony was far from the truth.

Have your advocate help you with the rebuttal. Address each contested point in the evidence with a complete, concise answer. Use the petitioner's own words to show inconsistencies in his or her testimony. Be positive. Show

no anger. Maintain a professional attitude. Feel free to contact SOS for assistance in the phrasing of your rebuttal. When mailing your final letter to the tribunal, include the case number. After the tribunal receives the “additional proofs” from both you and the petitioner, the marriage tribunal will convene to review the case and make a decision.

The Notification of Decision

As much as six months to a year or longer could pass from the time you received the very first letter, to the time you receive the “Notification of Decision” or “Decision of Annulment” (#1453, #1465). According to canon law, a case at First Instance can take no longer than a year. During that time the judge and other officials debate the merits of the petitioner's case. The Defender of the Bond reviews only the original marriage bond and should be impartial to arguments from either the petitioner’s or respondent’s advocate. According to canon law, the Defender’s duty is to look into all possible ways to avoid annulment (#1432), and his task could actually benefit you, the respondent. We believe, however, that more often than not, the Defender may merely rubber-stamp a decision made by the other tribunal officials.

If you are in the majority of respondents, the decision will favor the petitioner’s request. One individual was informed that an annulment also benefits a respondent who wishes to remarry in the Catholic Church. And most tribunals will tell respondents that an annulment is a “healing process.” [This may be true for petitioners, but any respondent who felt that way would probably not be contesting the annulment!] Do not accept any such frivolous statements. Do not lose hope: you always have the right to appeal! If you choose not to appeal, the case must still be sent to a higher court to obtain a second conforming decision (#1682). If the tribunal finds in *your* favor and denies the petitioner’s request for an annulment, no review to obtain a second conforming decision would be required (#1682). However, the *petitioner* would have the right to appeal. If the petitioner does not appeal within 30 days, you have won the case and preserved the validity of your marriage! Please see Chapter 2 for information on appeals.

The Notification of Decision, along with the Sentence (or Arguments or Acts of the Case), should arrive via certified mail (#1509). The Sentence should explain in detail why the Court made the decision it did (#1611). If you did not receive the Sentence, then ask the tribunal to provide it to you (#1615), or ask your advocate if you may read his/her copy. You have the right to offer any corrections of facts (#1616). One respondent had to correct a birth-date and place of marriage, because the petitioner mis-remembered those facts, and the tribunal had never even asked the respondent to furnish or confirm that information.

CHAPTER 2: TRIBUNAL OF THE SECOND INSTANCE

Confirmation of the Decision

The next higher court called the Tribunal of Second Instance must confirm the First Court's findings, but only in cases where they found in favor of the petitioner (#1682). The First Instance Tribunal usually seeks to obtain a confirmation from its next higher diocese in the region (#1632). For example, the Diocese of Austin reports to the Dioceses of Texas in San Antonio as their regional headquarters. However, if a party appeals, the Second Instance tribunal must conduct an actual "appeal," rather than a "mandatory review."

If the First Instance Court finds in the petitioner's favor, we recommend that you file an appeal with the Roman Rota, which will serve as the Tribunal of Second Instance. If you do not appeal, the Second Instance Tribunal must still conduct a mandatory review to confirm or deny the positive decision made by the First Instance Tribunal, and within six months! (#1453) However, the local tribunal will certainly send the case to their regional headquarters for the mandatory review. We recommend you appeal directly to the Rota, as they seem to be far less lenient in granting a large number of annulments based on Canon 1095. If the First Instance Tribunal finds in your favor, then the petitioner has the option to appeal to the regional tribunal or to the Rota.

Your Right to Appeal

When the Tribunal of First Instance issues a "Decision of Annulment," they should inform you by letter that you have the right to appeal (#1628). Look for a statement such as, "In accordance with #1614 and #1630, the parties are hereby informed that either party may lodge an appeal with this Judge within a peremptory time limit of 15 working days from receipt of this decision. In accordance with #1633, the party appealing then has one month to pursue this appeal before the competent appellate court." What the letter may not tell you is that the better "competent" appellate court is the Rota in Rome (#1443, #1444).

Appealing causes the execution of the judgment to be suspended, meaning that the petitioner is *not* free to have a Catholic Church marriage ceremony with his or her fiancé(e) or civil-law spouse (#1638). Some petitioners may hide facts from their priests, or some parish priests may be ignorant of canon law and perform the marriage anyway, breaching several canon laws (#1066, #1085 and #1114). The Notification of Decision is not the same as a "Declaration of Nullity," and some local parish priests may not know that. One respondent knows for certain that the ex-spouse remarried in the Catholic Church, despite the fact that the Tribunal of Second Instance had not yet confirmed the decision.

Talk to your advocate and make sure of your canon law rights. Insist that the tribunal provide you with the name of the contact person and the complete address of the appellate court of your choice, for which we recommend the Rota as mentioned above. Meeting the time limit is very important because you want to make certain there is no misunderstanding on the part of the tribunal that your choice is the Rota for the Second Instance Court of Appeal. Remember, you have 15 days to decide if you want to appeal. If you designate the Rota as Second Instance, then the First Instance must comply by sending your packet to Rome. The appeal to a Second Instance court will preempt the mandatory review, and the appellate court should conduct a trial, instead of just reviewing the packet.

Submitting Your Appeal

The lower court (First Instance Tribunal) may provide you with a short form or letter to facilitate your decision to appeal. It may include the case number, the canon law grounds and a statement such as: "I understand the judge of the First Instance Tribunal concluded that the petitioner gave invalid consent because of Canon # XXXX. I maintain that the above statement is not true, and my reasons for believing this are listed below." You have 15 days to submit this decision, which does not necessarily have to be a very lengthy defense. That comes later. If you choose the Rota, the Tribunal of First Instance may send you another letter with additional instructions about appeals to Rome. Then you have 30 days to submit your appeal.

There is no format for writing the decision letter or even the official appeal. One respondent recommended stating that the main reason for your appeal is that you feel American Tribunals routinely misinterpret Canon Law to make annulments easy to get and you are convinced that you cannot get a fair hearing of your case in any American Tribunal. Your official appeal should explain why you disagree with the lower court's findings. Your

letter should include a request to the judge to amend the judgment, a copy of the judgment itself and your reasons for the appeal (#1634).

Point out in a logical and courteous manner all your arguments, any of your rights which may have been denied, and any other information you feel is pertinent but was ignored. Many cases are overturned on procedural errors alone. Any breach of a canon law is a "procedural error." That is why it is important to understand all of your canon law rights. If possible, have your advocate help you draft this letter. Do not introduce a new canon law ground (#1639). You don't want to give them an alternate excuse to grant an annulment. See Chapter 3 of this guide for an additional discussion of procedural errors and new and grave proofs or arguments, which are normally used in recourse appeals to Third Instance Tribunals.

If you are choosing the Rota, we recommend you address your appeal *to* the Rota, but mail your packet to your First Instance Tribunal, if they instruct you to do so. Some tribunals may instruct you to wait until you hear from the Rota. There is no canon law prohibition against your sending an advanced copy to the Rota, if you want to ensure they receive everything. However, be careful what you include. You don't want to forward an earlier version of your testimony which might be different from what the tribunal sends. When writing to the Rota, you should find out the name of the current Dean and address him as: "Most Reverend (first and last names), Dean of the Roman Rota ." Here is the rest of the address: Piazza della Cancelleria 1, 00186 Rome, ITALY

Once the Rota has accepted your case, they will likely contact you through the First Instance Tribunal. Most correspondence from the Rota will be in Latin. Your local tribunal may furnish you with a rough translation or just a synopsis of what the Rota has written. If you desire a full verbatim translation, you could ask your local tribunal to provide one, although we know of respondents who never received a requested translation. Still, there are Catholic scholars who are knowledgeable in Latin or you could seek assistance from a local university.

If you prefer to use the US postal system, you could send your letter to the papal nuncio in Washington DC, with a request to forward your letter to the Dean of the Roman Rota. The diplomatic pouch probably goes once a week directly to Rome. Here is the address of the current Nuncio: Archbishop _____, Apostolic Nunciature, USA, 3339 Massachusetts Avenue, N.W. Washington, D.C. 20008- 3610

Payment to the Rota

The local tribunal may ask you to submit approximately \$1000 to cover expenses, which is usually only a portion of the actual cost the Rota spends to process one case. If you had selected the regional appellate court, they would probably not charge you, because the Tribunal of First Instance must submit the case to their regional appellate court for confirmation of the decision to annul the marriage (#1682), whether you appeal or not. Whenever you appeal to an alternate appellate tribunal, such as the Rota, there may be a fee.

According to canon #1649, "the bishop who directs the trial is to establish norms concerning: 1° the requirement of the parties to pay or compensate judicial expenses." This means that the Rota would determine the fee, not the local tribunal. SOS knows of no respondents who have been actually billed directly by the Rota, but this is probably because the Rota seems to prefer to deal with the tribunals rather than with the respondents. The local tribunal may tell you that there is a standing agreement between the United States Conference of Catholic Bishops (USCCB) and the Roman Rota that establishes the fees. This agreement is periodically updated to account for cost of living-type of increases. So you should expect to pay a stipend of about \$1000. (In 1993, the stipend was set at \$750-\$850.) You have the right to ask the Rota for a reduced payment or free legal aid (#1649), or you may ask your local tribunal to subsidize this payment. There are no guarantees of financial assistance. If you cannot afford the full amount, we suggest you send in a portion of the requested fee, indicating your sincerity in pursuing your appeal. It is your decision how to handle this matter.

If you decide to pay, we suggest that you make the check payable to "The Roman Rota," *not* to your First Instance Tribunal; but mail it to that local tribunal for forwarding to Rome. Although some tribunals may *insist* that you make the check payable to them, the Rota has accepted personal checks payable (in U.S. dollars) to the Rota. Some dioceses may insist on a bank check or money order. If they ask for foreign currency, you could try sending U.S. dollars. We believe that exchanging currency should be the Rota's problem.

One respondent who designated the Rota as Second Instance paid *nothing*, and the case was still sent to Rome, because the First Instance Tribunal had only 30 days to get the case to the designated appellate court. That respondent received a favorable outcome after 8 years (annulment denied). If the local tribunal demands money in

advance and you wish to try to avoid paying anything, you could politely remind them of their obligations under canons #1632, #1649 and #1682, all mentioned in Chapter 2 of this guidebook.

The Appeal Proceedings

The appeal or review by the Tribunal of Second Instance is a slow process, and has been known to take many, many years, although it is supposed to be limited to just 6 months (#1453). Several respondents' cases sat (or are still sitting) in Rome for 5 to 8 years. One reason for this long delay may be that the Rota staff is probably not large enough to handle the caseload. One respondent heard, via another source after about 5 years, that the case had been decided years before. The tribunal never informed this respondent that a decision was made. Therefore, if you are sending your appeal to Rome, it might be prudent to write at least once a year to the Rota or to your First Instance Tribunal just to check on the status of your case. The judge is to ensure that any extensions do not "overly prolong the litigation." (#1465)

If you appealed to the Rota they will provide you eventually with the name and address of a new advocate. Some respondents never received any communication from their assigned advocate even after sending several letters, and even when offering to write in French or German! Remember, there is no canon law requirement for the advocates to communicate with their respondents. But the ideal is to work with this advocate to ensure that the Rota has received **all** the evidence from the lower court. It is entirely possible that the lower court will only send selected evidence to the Rota, in order to stack the deck to obtain a certain outcome. The Rota may ask you for elaboration or clarification of your claims, or other documentation. If you are lucky enough to hear from your advocate, hopefully the letter will be in English. The appointed advocate is often an Italian or other nationality.

Eventually the Tribunal of Second Instance will make a ruling either to uphold the lower court's findings for the annulment, or to overturn their decision. If the latter is the case, then the Second Instance Tribunal should forward the case to a Third Instance Tribunal in order to ask for a second conforming decision (#1682). Please see Chapter 3.

The Official Annulment Document ("Declaration of Nullity")

If the Second Instance Tribunal upheld the lower court's decision to grant the annulment, they will authorize the Tribunal of First Instance to issue the official "Declaration of Nullity." This is the document that your former spouse was waiting for, so that he or she could have a new (or current civil) marriage blessed by the Catholic Church (#1684).

The First Instance Tribunal at your local diocese will then mail you the Declaration of Nullity, which is a formal looking document with a tribunal seal. You should also receive three more items: The "Sentence at Second Instance," another affidavit, and a statement describing your right to ask for a Third Instance Tribunal to reopen the case (#1644). (See Chapter 3.) The "Sentence" is a lengthy history of the case, with all arguments and findings. It could be 15 pages or more, and could be in Latin, especially if the Rota issued it. The tribunal cannot absolutely require you to sign and mail back the affidavit. However, if your local diocesan tribunal presents the Declaration of Nullity packet to you in person, you may have to sign the affidavit before they hand you the packet.

CHAPTER 3: TRIBUNAL OF THE THIRD INSTANCE

A Second Conforming Decision by the Third Instance Tribunal

If the Second Instance Tribunal disagrees with the decision made by the First Instance Tribunal, they should send the case to a Third Instance Tribunal for review (#1682 §2). This is not a matter of reopening the case, but of obtaining a second conforming or ratifying decision. In cases where the regional appellate court was the Second Instance Tribunal, they should forward the case to the Rota. In cases where the Rota was the Second Instance Tribunal, the Rota could forward the case to another collegiate tribunal within the Rota, or they could send it to the Signatura (#1445). The Signatura, an old institution at the Vatican dating to the 13th Century, was originally comprised of a Signatura of Grace and a Signatura of Justice. Pope Pius X combined the two. The Supreme Tribunal of the Apostolic Signatura hears disputes from the Rota or recourse appeals against rotal decisions.

If your case has reached this point, you are well on your way to saving the validity of your marriage. We feel it is more likely that the Rota or Signatura will not side with the tribunals in America. And if a Second Instance

collegiate tribunal in the Rota does not confirm the decision to annul, it is likely that a Third Instance tribunal in the Rota would agree with that Second Instance's conclusion.

The Right to Appeal to Reopen a Case

If the Second Instance Tribunal upheld the first court's findings for the annulment, you have recourse to appeal to a Third Instance Tribunal to reopen the case (#1644). This is because "status of persons" cases never become *res judicata*, meaning they are never adjudged as final; they are always open to recourse (#1643), but only if "new and grave proofs or arguments are brought forward within the preemptory time limit of thirty days from the proposed challenge" (#1644).

You should *immediately* petition the judge who issued the annulment decree to ask for its revocation (#1734). This petition presumes that you wish the sentence to be suspended. That means your former spouse is *still* not free to remarry, even though the judge issued the official Declaration of Nullity. In your letter to the judge, inform him that you intend to seek recourse from a Third Instance Tribunal. Mention that you are invoking the provisions Canon #1734 for a suspension of execution of the judgment. Timing is critical, because as soon as the petitioner receives the Declaration of Nullity, he or she may head to the altar.

If the Second Instance Tribunal was in a regional diocese, you should appeal to the Rota as the Third Instance Tribunal. If the Rota served as the Second Instance Tribunal, you should appeal to the Signatura to reopen the case. If the Rota upheld the local tribunal's decision to annul, your chances with the Signatura are slim. And your right to a "recourse appeal" does not guarantee that they will reopen the case. A common misconception is that "appeal" means a whole "new trial." Here, that is not always so. An appeal means a *request* to reopen the case. If you have reached this point in your case, seek all the advice and assistance you can from your prior advocate.

Write a formal letter addressed to the Dean of the Rota, or to the Secretary of the Signatura, whichever is the Third Instance Tribunal for your case. The letter should respectfully request that the Rota (or Signatura) reopen your case (include case #) because of "procedural errors" and "substantive arguments," especially if the Declaration of Nullity cited #1095 as the grounds. You should point out all "procedural errors" that occurred during the First and Second Instance proceedings, and any "new substantive" evidence or arguments. In the majority of cases, the **procedural errors** alone are enough for the appellate court to overturn the annulment decision.

Procedural errors are breaches of canon laws, such as the right of defense (#1620) or the right to an advocate (#1481, #1678). If the tribunal denied a respondent the right to review the evidence (#1598), that breach of canon law should be sufficient for the appellate court to overturn the lower court's decision. However, if you have observed no procedural errors, then your appeal may carry less weight. Send in your statement of appeal with a formal letter (include the case number on all correspondence) detailing your procedural errors and new substantive arguments (#1644). There may or may not be a time limit imposed, but ask for an extension if you need one. If writing to the Signatura, address the Secretary as: "Most Reverend Secretary." Here is the address:

Secretary of the Supreme Tribunal of the Apostolic Signatura
Piazza della Cancelleria 1
00186 Rome
ITALY

Again, the tribunal may ask you to submit \$1000 or more. They may or may not issue correspondence in Latin. They will provide you with the name and address of a new advocate appointed to ensure your rights are honored. This advocate may or may not speak English, may or may not take the initiative to write to you, and may or may not reply to your correspondence. However, that could change if the Rota (or Signatura) agrees to reopen your case.

The Response to your Appeal Request ("The Decree")

After reviewing the case, the Rota (or Signatura) will issue its decision in the form of a "Decree," probably five to seven pages written in Latin. They will mail it to the First Instance Tribunal, which should forward a copy to you. Do not count on automatically receiving a translation, but the tribunal should at least provide you with the conclusion ("affirmative" or "negative") and the name of someone qualified and willing to translate. Most dioceses have personnel who studied Latin, and finding a translator should not be that difficult. One respondent received a translation within 3 weeks of sending the request to a local diocese.

If the judge denies your appeal, you are nearly at the end of your options, especially if the Signatura acted as the Third Instance Tribunal. You may write back to the Judge of the Third Instance asking for a clarification of the decision (#1734), once you read the translation. If you still feel that your rights were ignored and that your case has merit, you could write to the Fourth Instance Tribunal and ask them to reopen the case (#1737). The Signatura is fourth if the Rota was the Third Instance. His Holiness the Pope is fourth if the Signatura was the Third Instance. However, in accordance with canon #1629, there is no appeal for sentences issued by the Apostolic Signatura or by the Pope.

A New Trial

If the Third Instance court agrees to reopen your case, you are back in business! Now, write to your advocate (in English) and ask what evidence he or she has reviewed. We suggest you send copies of everything to your advocate, just in case. This is your chance to make sure that the Third Instance Tribunal has everything. It is up to your advocate to find his or her own translator. If you receive letters written in Italian (or any other language), it may be up to you to find a translator.

The court should conduct a new trial, examining all the evidence submitted by lower courts, the petitioner and the respondent, and asking for more information or clarifications as necessary. If your case reaches this far, we suggest you work very closely with both former and new advocates. You will now be involved in a long-distance, dual-language correspondence. We are not sure what goes on in Rome, but, again, it could take years. The Third Instance Tribunal's decision may be final, especially at the Signatura level.

If the Third Instance Tribunal agrees to overturn the annulment, then they will inform the First Instance Tribunal to cancel any Declaration of Nullity. You have won the case!

If the Third Instance Tribunal upholds the annulment issued by the lower courts, you have lost the case. However, you still have recourse to appeal to a Fourth Instance Tribunal to reopen the case (#1445 2^o, #1737). This could be difficult in cases where the Rota was Second Instance and the Signatura was Third Instance. There is no appeal from sentences issued by the Signatura (#1629). And the Pope may only hear cases involving royalty or someone otherwise politically connected.

Conclusions

Take your case to the highest possible court as soon as possible and never waiver on your inherent, personal beliefs. *Be wary of anyone except your advocate;* and try not to sign anything until you know exactly what ramifications your signature will have on your future rights. Remember the levels of the hierarchy: local diocese, regional diocese, Rota, Signatura and the Pope; but do not forget that ultimately God knows what is right, even if the tribunals do not.

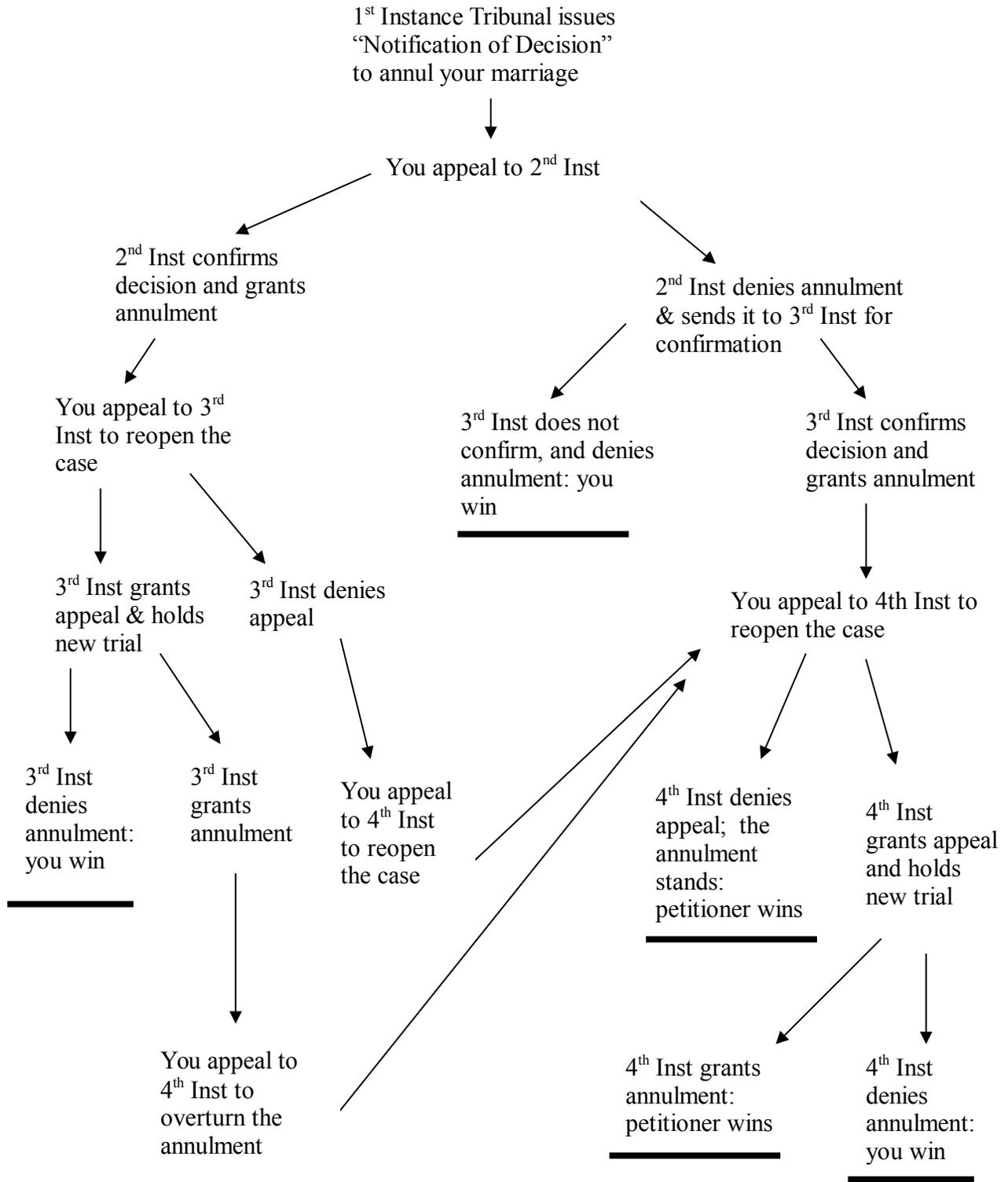
Some knowledge of canon law is *extremely* important. This guide provides references to the most commonly used canons. If your advocate is not a canon lawyer, you should make every effort to read and understand the canons cited in this guide, at a minimum. A letter to tribunal personnel that contains pertinent and accurately-cited canon laws will attract much more attention than a letter which consists mostly of emotional ranting and ravings. One respondent's letter to the Signatura cited at least 15 canon laws.

In granting an extraordinary number of annulments, the Catholic Church in America may have an ulterior motive, that of increasing a dwindling membership by allowing divorced and remarried petitioners a way back to the Eucharist. The latin-rite (Roman Catholic) Church will probably never admit to participating in a hypocrisy. With enough pressure, though, they could eventually recognize divorce and allow new marriages without annulments, as the Eastern Orthodox churches do.

Remember several things: First, from what we have learned, the actual cost to the Rota of processing one annulment case can reach several thousand dollars, of which you pay only a portion. Second, Rome takes annulments far more seriously than the tribunal personnel do in the United States. Third, and more importantly, you are not alone. There are plenty of us who have already been through the annulment maze and learned many of these lessons the hard way. Our organization, **SOS: Reform of Annulment and Respondent Support**, is here to help you in whatever way we can.

Appendix A

RESPONDENT'S FLOW CHART



Appendix B

RECOMMENDED READING

Catechism of the Catholic Church. Article 7, Chapter Three, Section Two, Part Two. This article, called “The Sacrament of Marriage,” covers items 1601 to 1666 in the Catechism.

The Code of Canon Law: Latin - English Edition, Washington, DC: Canon Law Society of America, 1983.

Kennedy, Sheila Rauch, Shattered Faith, New York: Pantheon Books, 1997. Ms. Kennedy’s book is largely responsible for the origins of our organization, SOS: RoA&RS.

Vasoli, Robert H., What God has Joined Together: The Annulment Crisis in American Catholicism, New York: Oxford University Press, 1998. “This revealing look at annulment weaves painstaking analysis with a wealth of evidence as it illuminates the degree to which the U.S. Church has gone its own way since Vatican II on what constitutes valid marriage.” (Quote from the dust jacket of the book.)

Appendix C

An Introduction to the Code of Canon Law

The revised Code of Canon Law was published in Latin on January 25, 1983, superseding the 1917 version. Currently, the only source in America for obtaining a hard-copy American-English translation is the Canon Law Society of America (CLSA) Publication Distribution Center, P.O. Box 463, Annapolis Junction, MD 20701-0463. However, you may find the Code of Canon Law on the internet by typing “code of canon law” in the search engine window of your internet service provider.

If you wish to “fight fire with fire” in your annulment case, the Code of Canon Law is the best place to start. But it is not easy to read and understand the Code. The language is archaic and full of legalese, as in the following example: “In any trial, a single judge can employ two assessors who consult with him; they are to be clerics or lay

persons of upright life” (#1424). One can only imagine what an “upright life” means. In the Foreword to the Translation, one of the guiding principles states that only the Latin text is official, and is often consulted. It is possible to obtain a Latin-English edition, which can be helpful especially for those who were fortunate enough to study Latin in school.

In his prefatory “Apostolic Constitution,” Pope John Paul II provides the purpose of the Code: “As the Church’s principal legislative document founded on the juridical-legislative heritage of revelation and tradition, the Code is to be regarded as an indispensable instrument to ensure order both in individual and social life, and also in the Church’s own activity.” Hence, the Catholic Church appears to legislate the morality of its members, and civil law cannot stop the Church from doing so.

The Code of Canon Law is comprised of seven books and a total of 1752 canons.

Book I	General Norms (#1 - 203)
Book II	The People of God (#204 - 746)
Book III	The Teaching Function of the Church (#747 - 833)
Book IV	The Sanctifying Function of the Church (#834 - 1253)
Book V	The Temporal Goods of the Church (#1254 - 1310)
Book VI	Sanctions in the Church (#1311 - 1399)
Book VII	Processes (#1400 - 1752)

The Sacrament of Marriage is found in Book IV, Part I (The Sacraments), Title VII (Marriage), which consists of ten chapters. Canons #1055 - 1062 are introductory definitions of what a good, valid marriage is supposed to be.

Chapter I (#1063 – 1072) discusses pastoral care and the prerequisite for premarital counseling. “Before a marriage is celebrated, it must be evident that nothing stands in the way of its valid and licit celebration” (#1066). If this is true, then the parish priest already decided there were no impediments, so how can a tribunal suddenly discover years later that there was an impediment? The Church may tell you that because the marriage ended in civil divorce, there must have been a hidden impediment at the time of the marriage celebration.

Chapter II (#1073-1082) discusses diriment impediments in general. “A diriment impediment renders a person unqualified to contract marriage validly” (#1073)

Chapter III (#1083 - 1085) lists individual impediments, such as impotence, bigamy, consanguinity, and youth (men must be 16, women must be 14).

Chapter IV (#1086 - 1107) discusses additional grounds for declaring marriages invalid. If a lack or defect of consent was present at the time of the wedding ceremony, the marriage could be declared invalid. For example, if a person deceived or tricked another into marriage, consent was lacking (#1098). If a person suffered from a “grave defect of discretion of judgment concerning the essential matrimonial rights...” consent was lacking (#1095). This canon, #1095, is a catch-all or “loose canon” that Tribunal judges use most often when no other impediment is obvious. If a couple by positive act intentionally excluded any essential element of marriage, (such as the practice of birth control indicating a lack of openness to children) then consent was lacking. (#1101)

Chapter V (#1108 - 1123) discusses the form of the celebration of marriage. If a lack or defect of form occurred at the time of the marriage ceremony, it could be declared invalid. For example, if a couple was not married in the presence of a parish priest or an appropriately delegated official, then form was lacking (#1108). If the priest had not satisfied himself of the parties’ freedom to marry, form may be lacking (#1114). These canons are often used to declare non-catholic marriages invalid, because obviously, non-catholic marriages are not performed by a catholic priest.

Chapter VI (#1124 - 1129) discusses mixed marriages, those between Catholics and non-Catholics.

Chapter VII (#1130 - 1133) discusses the secret celebration of marriage.

Chapter VIII (#1134 - 1140) discusses the effects of marriage, such as conjugal rights and the legitimacy of offspring.

Chapter IX (#1141 - 1155) discusses the separation of spouses. “A marriage which is *ratum et consummatum* can be dissolved by no human power and by no cause, except death” (#1141). “Spouses have the duty and right to preserve conjugal living unless a legitimate cause excuses them” (#1151).

Chapter X (#1156 - 1165) discusses the validation of marriage. If an impediment was found, and a marriage declared invalid, the marriage can be newly validated if the impediment ceases or is given dispensation. This works for couples who want to stay married to each other.

The canons pertaining to trials are found in Book VII, which is divided in five parts.

Part I Trials in General (#1400-1403)

Title I **The Competent Forum** (#1404-1416)

Title II **Different Grades and Kinds of Tribunals** (#1417-1445) This section discusses the First, Second and Third Instance tribunals and their responsibilities. The tribunals of the Rota and Signatura, and the types of cases they can hear are also mentioned in this section.

Title III **The Discipline to be Observed in Tribunals** (#1446-1475). This section concerns the duties of the judges.

Title IV **The Parties in a Case** (#1476-1490). This section concerns the petitioners, respondents, advocates and procurators.

Title V Actions and Exceptions (#1491-1500)

Part II The Contentious Trial

Section I **The Ordinary Contentious Trial** (#1501-1655): This is the main section on procedures: the Summons, the Trial, the Proofs, the Witnesses, the Experts, the Publication of the Acts, the Pronouncements of the Judge, the Challenge of the Sentence, the Appeal, the Expenses, and the Execution of the Sentence.

Section II The Oral Contentious Process (#1656-1670)

Part III Certain Special Processes

Title I **Marriage Processes**

Chapter I **Cases to Declare the Nullity of Marriage** (#1671-1691) Additional information is given on the Competent Forum, the Right to Challenge a Marriage, the Duty of the Judges, the Proofs, the Sentence and the Appeal, the Documentary Process.

Chapter II Cases of Separation of Spouses (#1692-1696)

Chapter III Process for the Dispensation of a Marriage *Ratum et non consummatum* (#1697-1706)

Chapter IV Process in the Presumed Death of a Spouse (#1707)

Title II Cases for Declaring the Nullity of Sacred Ordination (#1708-1712)

Title III Methods of Avoiding Trials (#1713-1716)

Part IV The Penal Process (#1717-1731)

Part V The Method of Proceeding in Administrative Recourse

Section I **Recourse Against Administrative Decrees** (#1732 - 1739) This section discusses your rights to request a Third or higher Instance tribunal to re-open a case if you feel “aggrieved by a decree.”

Section II The Procedure in the Removal or Transfer of Pastors (#1740-1752)

Appendix D

LIST OF MOST CANON LAWS CITED IN THIS GUIDE

(from: The Code of Canon Law: Latin - English Edition, Washington, DC: Canon Law Society of America, 1983.)

- 1** The canons of this Code regard only the Latin Church.
- 1055** §1 The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized.
- §2 For this reason, a valid matrimonial contract cannot exist between the baptized without it being by that fact a sacrament.
- 1056** The essential properties of marriage are unity and indissolubility, which in Christian marriage obtain a special firmness by reason of the sacrament.
- 1057** §1 The consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent.
- §2 Matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other through an irrevocable consent in order to establish marriage.
- 1060** Marriage possesses the favor of law; therefore, in a case of doubt, the validity of a marriage must be upheld until the contrary is proven.
- 1066** Before a marriage is celebrated, it must be evident that nothing stands in the way of its valid and licit celebration.
- 1067** The conference of bishops is to establish norms about the examination of spouses and about the marriage banns or other opportune means to accomplish the investigations necessary before marriage. After these norms have been diligently observed, the pastor can proceed to assist at the marriage.
- 1083** §1 A man before he has completed his sixteenth year of age and a woman before she has completed her fourteenth year of age cannot enter into a valid marriage.
- §2 The conference of bishops is free to establish a higher age for the licit celebration of marriage.
- 1084** §1 Antecedent and perpetual impotence to have intercourse, whether on the part of the man or the woman, whether absolute or relative, nullifies marriage by its very nature.
- §2 If the impediment of impotence is doubtful, whether by a doubt about the law or a doubt about a fact, a marriage must not be impeded nor, while the doubt remains, declared null.
- §3 Sterility neither prohibits nor nullifies marriage, without prejudice to the prescript of can. 1098.
- 1085** §1 A person bound by the bond of a prior marriage, even if it was not consummated, invalidly attempts marriage.
- §2 Even if the prior marriage is invalid or dissolved for any reason, it is not on that account permitted to contract another before the nullity or dissolution of the prior marriage is established legitimately and certainly.

- 1091** §1 In the direct line of consanguinity marriage is invalid between all ancestors and descendants, both legitimate and natural.
- §2 In the collateral line marriage is invalid up to and including the fourth degree.
- §3 The impediment of consanguinity is not multiplied.
- §4 A marriage is never permitted if doubt exists whether the partners are related by consanguinity in any degree of the direct line or in the second degree of the collateral line.
- 1095** The following are incapable of contracting marriage:
- 1° those who lack the sufficient use of reason;
- 2° those who suffer from a grave defect of discretion of judgment concerning the essential matrimonial rights and duties mutually to be handed over and accepted;
- 3° those who are not able to assume the essential obligations of marriage for causes of a psychic nature.
- 1096** §1 For matrimonial consent to exist, the contracting parties must be at least not ignorant that marriage is a permanent partnership between a man and a woman ordered to the procreation of offspring by means of some sexual cooperation.
- §2 This ignorance is not presumed after puberty.
- 1098** A person contracts invalidly who enters marriage deceived by malice, perpetrated to obtain consent, concerning some quality of the other partner which by its very nature can gravely disturb the partnership of conjugal life.
- 1101** §1 The internal consent of the mind is presumed to conform to the words and signs used in celebrating the marriage.
- §2 If, however, either or both of the parties by a positive act of will exclude marriage itself, some essential element of marriage, or some essential property of marriage, the party contracts invalidly.
- 1108** §1 Only those marriages are valid which are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses according to the rules expressed in the following canons and without prejudice to the exceptions mentioned in cann. 144, 1112 §1, 1116 and 1127 §§ 2-3.
- §2 The person who assists at a marriage is understood to be only that person who is present, asks for the manifestation of the consent of the contracting parties, and receives it in the name of the Church.
- 1114** The person assisting at marriage acts illicitly unless the person has made certain of the free status of the contracting parties according to norm of law and, if possible, of the permission of the pastor whenever the person assists in virtue of general delegation.
- 1402** The following canons govern all tribunals of the Church, without prejudice to the norms of the tribunals of the Apostolic See.
- 1417** §1 By reason of the primacy of the Roman Pontiff, any member of the faithful is free to bring or introduce his or her own contentious or penal case to the Holy See, for adjudication in any grade of trial and at any stage of the litigation.
- §2 Recourse brought to the Apostolic See, however, does not suspend the exercise of the jurisdiction by a judge who has already begun to adjudicate a case except in the case of an appeal. For this reason, the judge can prosecute a trial even to the definitive sentence unless the Apostolic See has informed the judge that it has called the case to itself.

- 1425** §1 With every contrary custom reprobated, the following cases are reserved to a collegiate tribunal of three judges:
- 1° contentious cases: a) concerning the bond of sacred ordination; b) concerning the bond of marriage, without prejudice to the prescripts of cann. 1686 and 1688;
- 2° penal cases: a) concerning delicts which can entail the penalty of dismissal from the clerical state; b) concerning the imposition or declaration of an excommunication.
- §2 The bishop can entrust more difficult cases or those of greater importance to the judgment of three or five judges.
- §3 Unless the bishop establishes otherwise in individual cases, the judicial vicar is to assign the judges in order by turn to adjudicate individual cases.
- §4 If it happens that a collegiate tribunal cannot be established in the first instance of a trial, the conference of bishops can permit the bishop, for as long as the impossibility continues, to entrust cases to a single clerical judge who is to employ an assessor and auditor where possible.
- §5 The judicial vicar is not to substitute judges once they have been assigned except for a most grave cause expressed in a decree.
- 1428** §1 The judge or the president of a collegiate tribunal can designate an auditor, selected either from the judges of the tribunal or from persons the bishop approves for this function, to instruct the case.
- §2 The bishop can approve for the function of auditor clerics or lay persons outstanding for their good character, prudence, and doctrine.
- §3 It is for the auditor, according to the mandate of the judge, only to collect the proofs and hand those collected over to the judge. Unless the mandate of the judge prevents it, however, the auditor can in the meantime decide what proofs are to be collected and in what manner if a question may arise about this while the auditor exercises his or her function.
- 1432** A defender of the bond is to be appointed in the diocese for cases concerning the nullity of ordination or the nullity or dissolution of a marriage; the defender of the bond is bound by office to propose and explain everything which reasonably can be brought forth against the nullity or dissolution.
- 1441** The tribunal of second instance must be established in the same way as the tribunal of first instance. Nevertheless, if a single judge rendered a sentence in the first instance of the trial according to can. 1425, §4, the tribunal of second instance is to proceed collegially.
- 1443** The Roman Rota is the ordinary tribunal established by the Roman Pontiff to receive appeals.
- 1444** §1 The Roman Rota judges:
- 1° in second instance, cases which have been adjudicated by the ordinary tribunals of first instance and brought before the Holy See through legitimate appeal;
- 2° in third or further instance, cases which the Roman Rota or any other tribunals have already adjudicated unless the matter is a *res iudicata*.

§2 This tribunal also judges in first instance the cases mentioned in can.1405 §3 and others which the Roman Pontiff, either *motu proprio* or at the request of the parties, has called to his own tribunal and entrusted to the Roman Rota; unless the rescript entrusting the function provides otherwise, the Rota also judges these cases in second and further instance.

1445 §1 The supreme tribunal of the Apostolic Signatura adjudicates:

1° complaints of nullity, petitions for *restitutio in integrum* and other recourses against rotal sentences;

2° recourses in cases concerning the status of persons which the Roman Rota refused to admit to a new examination.

3° exceptions of suspicion and other cases against the auditors of the Roman Rota for acts done in the exercise of their functions;

4° conflicts of competence mentioned in can. 1416.

§2 This tribunal deals with conflicts which have arisen from an act of ecclesiastical administrative power and are brought before it legitimately, with other administrative controversies which the Roman Pontiff or the dicasteries of the Roman Curia bring before it, and with a conflict of competence among these dicasteries.

§3 Furthermore it is for this supreme tribunal:

1° to watch over the correct administration of justice and discipline [of] advocates or procurators if necessary;

2° to extend the competence of tribunals;

3° to promote and approve the erection of the tribunals mentioned in cann. 1423 and 1439.

1453 Without prejudice to justice, judges and tribunals are to take care that all cases are completed as soon as possible and that in a tribunal of first instance they are not prolonged beyond a year and in a tribunal of second instance beyond six months.

1455 §1 Judges and tribunal personnel are always bound to observe secrecy of office in a penal trial, as well as in a contentious trial if the revelation of some procedural act could bring disadvantage to the parties.

§2 They are also always bound to observe secrecy concerning the discussion among the judges in a collegiate tribunal before the sentence is passed and concerning the various votes and opinions expressed there, without prejudice to the prescript of can. 1609 §4.

§3 Whenever the nature of the case or the proofs is such that disclosure of the acts or proofs will endanger the reputation of others, provide opportunity for discord, or give rise to scandal or some other disadvantage, the judge can bind the witnesses, the experts, the parties and their advocates or procurators by oath to observe secrecy.

1465 §1 *Fatalia legis*, that is, the time limits established by law for extinguishing right, cannot be extended nor validly shortened unless the parties request it.

§2 Before the judicial or conventional time limits lapse, however, the judge can extend them for a just cause after the parties have been heard or if they request it; the judge, however, can never shorten those limits validly unless the parties agree.

§3 Nevertheless, the judge is to take care that such an extension does not overly prolong the litigation.

1481 §1 A party can freely appoint an advocate and procurator; except for the cases established in §§2 & 3, however, the party can also petition and respond personally unless the judge has decided that the services of a procurator or advocate are necessary.

§2 In a penal trial, the accused must always have an advocate, either appointed personally or assigned by the judge.

§3 In a contentious trial which involves minors or in a trial which affects the public good, with the exception of marriage cases, the judge is to appoint *ex officio* a defender for a party who does not have one.

1483 The procurator and advocate must have attained the age of majority and be of good reputation; moreover, the advocate must be a Catholic unless the diocesan bishop permits otherwise, a doctor in canon law or otherwise truly expert, and approved by the same bishop.

1487 For a grave cause, the judge either *ex officio* or at the request of the party can remove the procurator and the advocate by decree.

1504 The *libellus*, which introduces litigation must:

1° express the judge before whom the case is introduced, what is being sought and by whom it is being sought;

2° indicate the right upon which the petitioner bases the case and, at least generally, the facts and proofs which will prove the allegations;

3° be signed by the petitioner or the petitioner's procurator, indicating the day, month and year, and the address where the petitioner or the procurator lives, or where they say they reside for the purpose of receiving the acts;

4° indicate the domicile or quasi-domicile of the respondent.

1507 §1 In the decree which accepts the *libellus* of the petitioner, the judge or the presiding judge must call the other parties to trial, that is cite them to the joinder of the issue, establishing whether they must respond in writing or present themselves before the judge to come to agreement about the doubts. If from the written responses the judge perceives it necessary to convene the parties, the judge can establish that by a new decree.

§2 If the *libellus* is considered as accepted according to the norm of can. 1506, the decree of citation to the trial must be issued within twenty days from the request mentioned in that canon.

§3 If the litigating parties de facto present themselves before the judge to pursue the case, however, there is no need for a citation, but the notary is to note in the acts that the parties were present for the trial.

1508 §1 The decree of citation to the trial must be communicated immediately to the respondent and at the same time to others who must appear.

§2 The *libellus* which introduces litigation is to be attached to the citation unless for grave causes the judge determines that the libellus must not be made known to the party before that party makes a deposition in the trial.

- §3 If litigation is introduced against someone who does not have the free exercise of his or her rights or the free administration of the things in dispute, the citation must be communicated, as the case may be, to the guardian, curator, or special procurator, that is, the one who is bound to undertake the trial in the name of that person according to the norm of law.
- 1509** §1 The notification of citations, decrees, sentences, and other judicial acts must be made through the public postal services, or by some other very secure method according to the norms established in particular law.
- §2 The fact of notification and its method must be evident in the acts.
- 1510** A respondent who refuses to accept the document of citation, or who prevents its delivery is considered to be legitimately cited.
- 1526** §1 The burden of proof rests upon the person who makes the allegation.
- §2 The following do not need proof:
- 1° matters presumed by the law itself;
- 2° facts alleged by one of the contending parties and admitted by the other unless the law or the judge nevertheless requires proof.
- 1531** §1 A party who is legitimately questioned must respond and must tell the whole truth.
- §2 If a party refuses to respond, it is for the judge to decide what can be inferred from that refusal concerning the proof of the facts.
- 1532** In cases where the public good is at stake, the judge is to administer an oath to the parties to tell the truth or at least to confirm the truth of what they have said unless a grave cause suggests otherwise; the same can be done in other cases according to the judge's own prudence.
- 1546** § 1 Even if documents are common, no one is bound to present those which cannot be communicated without danger of harm according to the norm of in can.1548 §2, 2°, or without danger of violating an obligation to observe secrecy.
- §2 Nonetheless, if at least some small part of a document can be transcribed and presented in copy without the above-mentioned disadvantages, the judge can decree that it be produced.
- 1547** Proof by means of witnesses is allowed under the direction of the judge in cases of any kind.
- 1552** §1 When proof through witnesses is requested, their names and domicile are to be communicated to the tribunal.
- §2 The items of discussion about which questioning of the witnesses is sought are to be presented within the time period set by the judge; otherwise, the request is to be considered as abandoned.
- 1554** Before the witnesses are examined, their names are to be communicated to the parties; if in the prudent judgment of the judge, however, that cannot be done without grave difficulty, it is to be done at least before the publication of the testimonies.
- 1555** Without prejudice to the prescript of can. 1550, a party can request the exclusion of a witness if a just cause for the exclusion is shown before the questioning of the witness.
- 1557** A witness who has been cited properly is to appear or inform the judge of the reason for the absence.
- 1558** §1 Witnesses must be examined at the tribunal unless the judge deems otherwise.

- §2 Cardinals, patriarchs, bishops, and those who possess a similar favor by civil law are to be heard in the place they select.
- §3 The judge is to decide where to hear those for whom it is impossible or difficult to come to the tribunal because of distance, sickness, or some impediment, without prejudice to the prescripts of can 1418 and 1469 §2.
- 1562** §1 The judge is to call to the attention of the witness the grave obligation to speak the whole truth and only the truth
- §2 The judge is to administer an oath to the witness according to can. 1532; a witness who refuses to take it, however, is to be heard without the oath.
- 1571** Both the expenses which the witnesses incurred and the income which they lost by giving testimony must be reimbursed to them, according to the just assessment of the judge.
- 1585** A person who has a favorable presumption of law is freed from the burden of proof, which then falls to the other party.
- 1586** The judge is not to formulate presumptions which are not established by law unless they are directly based on a certain and determined fact connected with the matter in dispute.
- 1592** §1 If the cited respondent has neither appeared or given a suitable excuse for being absent or has not responded according to can. 1507 §1, the judge, having observed what is required is to declare the respondent absent from the trial and decree that the case is to proceed to the definitive sentence its execution.
- §2 Before issuing the decree mentioned in §1, the judge must be certain that a legitimately executed citation has reached the respondent within the useful time, even by issuing a new citation if necessary.
- 1598** §1 After the proofs have been collected, the judge by a decree must permit the parties and their advocates, under penalty of nullity, to inspect at the tribunal chancery the acts not yet known to them; furthermore, a copy of the acts can also be given to advocates who request one. In cases pertaining to the public good to avoid a most grave danger, the judge can decree that a specific act must be shown to no one; the judge is to take care, however, that the right of defense always remains intact.
- §2 To complete the proofs, the parties can propose additional proofs to the judge. When these proofs have been collected, it is again an occasion for the decree mentioned in §1 if the judge thinks it necessary.
- 1601** After the conclusion of the case, the judge is to determine a suitable period of time to present defense briefs or observations.
- 1602** §1 The defense briefs and observations are to be written unless the judge, with the consent of the parties, considers a debate before a session of the tribunal to be sufficient.
- §2 To print the defense briefs along with the principal documents requires the previous permission of the judge, without prejudice to the obligation of secrecy, if such exists.
- 1603** §1 When the defense briefs and observations have been communicated to each party, either party is permitted to present responses within the brief time period established by the judge.

§2 The parties are given this right only once unless the judge decides that it must be granted a second time for a grave cause; then, however, the grant made to one party is considered as given to the other also.

§3 The promoter of justice and the defender of the bond have the right to reply a second time to the responses of the parties.

1611 The sentence must:

1° decide the controversy deliberated before the tribunal with an appropriate response given to the individual doubts;

2° determine what obligations have arisen for parties from the trial and how they must be fulfilled;

3° set forth the reasons or motives in law and in fact on which the dispositive part of the sentence is based;

4° determine the expenses of the litigation.

1614 A sentence is to be published as soon as possible, with an indication of the means by which it can be challenged. It has no force before publication even if the dispositive part was made known to the parties with the permission of the judge.

1615 Publication of communication of the sentence can be done either by giving a copy of the sentence to the parties or to their procurators or by sending them a copy according to the norms of can. 1509.

1616 §1 If in the text of the sentence an error in calculations turn up, a material error occurs in transcribing dispositive section or in relating the facts or the petitions of the parties, or the requirements of can. 1612, §4 are omitted, the tribunal which rendered the sentence must correct or complete it either at the request of a party or *ex officio*, but always after the parties have been heard and a decree appended to the bottom of the sentence.

§2 If any party objects, the incidental question is to be decided by a decree.

1620 A sentence suffers from the defect of irremediable nullity, if:

1° it was rendered by an absolutely incompetent judge;

2° it was rendered by a person who lacks the power of judging in the tribunal in which the case was decided;

3° a judge rendered a sentence coerced by force or grave fear;

4° the trial took place without the judicial petition mentioned in can. 1501 or was not instituted against some respondent;

5° if it was rendered between parties, at least one of whom did not have standing in the trial;

6° someone acted in the name of another without a legitimate mandate;

7° the right of defense was denied to one or other party;

8° it did not decide the controversy even partially.

1628 A party who considers himself or herself aggrieved by any sentence as well as the promoter of justice and the defender of the bond in cases which require their presence have the right to appeal the sentence to a higher judge, without prejudice to the prescript of can. 1629.

1629 There is no appeal:

1° from a sentence of the Supreme Pontiff himself or the Apostolic Signatura;

2° from a sentence tainted by a defect of nullity, unless the appeal is joined with a complaint of nullity according to the norm of can. 1625;

3° from a sentence which has become a *res judicata*;

4° from a decree of a judge or from an interlocutory sentence which does not have the force of a definitive sentence, unless it is joined with an appeal from a definitive sentence;

5° from a sentence or a decree in a case where the law requires the matter to be decided as promptly as possible (*expeditissime*).

1630 §1 An appeal must be introduced before the judge who rendered the sentence within the peremptory period of fifteen useful days from the notice of the publication of the sentence.

§2 If an appeal is made orally, the notary is to put it in writing in the presence of the appellant.

1632 §1 If the appeal does not indicate of the tribunal to which it is directed, it is presumed to be made to the tribunal mentioned in can. 1438 and 1439.

§2 If the other party has appealed to another appellate tribunal, the tribunal of higher grade deals with the case, without prejudice to can. 1415.

1633 An appeal must be pursued before the appellate judge within a month from its introduction unless the judge from whom appeal is made has established a longer period for a party to pursue it.

1634 §1 To pursue an appeal it is required and suffices that a party calls upon the services of a higher judge for an emendation of the challenged sentence, attaches a copy of this sentence, and indicates the reasons for the appeal.

§2 If the party cannot obtain a copy of the challenged sentence from the tribunal from which appeal is made within the useful time, the time limits do not run in the meantime; the impediment must be made known to the appellate judge who is to bind the judge from whom appeal is made by a precept to fulfill that judge's duty as soon as possible.

§3 Meanwhile, the judge from whom appeal is made must transmit the acts to the appellate judge according to the norm of can. 1474.

1638 An appeal suspends the execution of the sentence.

1639 §1 Without prejudice to the prescript of can. 1683, a new cause for petitioning cannot be admitted at the appellate grade, not even by way of useful accumulation; consequently, the joinder of the issue can only address whether the prior sentence is to be confirmed or revised either totally or partially.

§2 New proofs, however, are admitted only according to the norm of can. 1600.

1643 Cases concerning the status of persons, including cases concerning the separations of spouses, never become *res judicata*.

1644 §1 If a second concordant sentence has been rendered in a case concerning the status of persons, recourse can be made at any time to the appellate tribunal if new and grave proofs or arguments are brought forward within the peremptory time limit of thirty days from the proposed challenge. Within a month from when the new proofs and arguments are brought forward, however, the appellate tribunal must establish by decree whether a new presentation of the case must be admitted or not.

§2 Recourse to a higher tribunal in order to obtain a new presentation of the case does not suspend the execution of the sentence unless either the law provides otherwise or the appellate tribunal orders its suspension according the norm of can 1650 §3.

1649 §1 The bishop who directs the tribunal is to establish norms concerning:

1° the requirement of the parties to pay or compensate judicial expenses;

2° the fees for the procurators, advocates, experts and interpreters, and the indemnity for the witnesses;

3° the grant of gratuitous legal assistance or the reduction of the expenses;

4° the recovery of damages owed by a person who not only lost the trial but also entered into the litigation rashly;

5° the deposit of money or the provision furnished for the payment of expenses and recovery of damages.

§2 There is no separate appeal from the determination of expenses, fees, and recovery of damages, but the parties can make recourse within fifteen days to the same judge who can adjust the assessment.

1650 §1 A sentence that has become a *res judicata* can be executed, without prejudice to the prescript of can. 1647.

1673 In cases concerning the nullity of marriage which are not reserved to the Apostolic See the following are competent:

1° the tribunal of the place in which the marriage was celebrated;

2° the tribunal of the place in which the respondent has a domicile or quasi-domicile;

3° the tribunal of the place in which the petitioner has a domicile, provided that both parties live in the territory of the same conference of bishops and the judicial vicar of the domicile of the respondent gives consent after he has heard the respondent;

4° the tribunal of the place in which in fact most of the proofs must be collected, provided that consent is given by the judicial vicar of the domicile of the respondent, who is first to ask if the respondent has any exception to make.

1678 §1 The defender of the bond, the legal representatives of the parties, and also the promoter of justice, if involved in the trial, have the following rights:

1° to be present at the examination of the parties, the witnesses, and the experts, without prejudice to the prescript of can. 1559;

2° to inspect the judicial acts, even those not yet published, and to review the documents presented by the parties.

§2 The parties cannot be present at the examination mentioned in §1, 1°

1682 §1 The sentence which first declared the nullity of the marriage is to be transmitted *ex officio* to the appellate tribunal within twenty days from the publication of the sentence, together with the appeals, if there are any, and the other acts of the trial.

§2 If a sentence in favor of the nullity of a marriage was given in the first grade of a trial, the appellate tribunal, is either to confirm the decision at once by decree or to admit the case to an ordinary examination in a new grade, after having weighed carefully the observations of the defender of the bond and those of the parties if there are any.

1683 If a new ground of nullity of the marriage is alleged at the appellate grade, the tribunal can admit it and judge it as if in first grade.

1684 §1 After the sentence which first declared the nullity of the marriage has been confirmed at the appellate grade either by a decree or by a second sentence, the persons whose marriage has been declared null can contract a new marriage as soon as the decree or second sentence has been communicated to them unless a prohibition attached to the sentence or decree or established by the local ordinary has forbidden this.
§2 The prescripts of can. 1644 must be observed even if the sentence which declared the nullity of the marriage was confirmed not by a second sentence but by a decree.

1734 §1 Before proposing recourse, a person must seek the revocation or emendation of the decree in writing from its author. When this petition is proposed, by that very fact suspension of the execution of the decree is understood to be requested.

§2 The petition must be made within the peremptory period of ten useful days from the legitimate notification of the decree.

§3 The norms of §1 and 2 are not valid:

1° for recourse proposed to a bishop against decrees issued by authorities subject to him;

2° for recourse proposed against a decree which decides a hierarchical recourse unless the bishop gave the decision;

3° for recourse proposed according to the norm of cann. 57 and 1735.

1737 §1 A person who claims to have been aggrieved by a decree can make recourse for any just reason to the hierarchical superior of the one who issued the decree. The recourse can be proposed before the author of the decree who must transmit it immediately forward to the competent hierarchical superior.

§2 Recourse must be proposed within the peremptory time limit of fifteen useful days which in cases mentioned in can.1734 §3, run from the day on which the decree was communicated; in other cases, however, they run according to the norm of can. 1735.

§3 Nevertheless, even in cases in which recourse does not suspend the execution of the decree by the law itself and suspension has not been decreed according to the norm of can. 1736 §2, the superior can order the execution to be suspended for a grave cause, yet cautiously so that the salvation of souls suffers no harm.

Appendix E

GLOSSARY

Acts of the Case	1) The assembled testimony presented to the respondent for the purpose of allowing the respondent the opportunity to submit a rebuttal, per Canon #1598. 2) The "arguments" that the judge writes showing his thought processes that led to his decision about the petition. 3) Sometimes called the Sentence.
Advocate	An official appointed to help either the petitioner or the respondent. According to Canon Law #1483, the advocate is to a doctor in canon law or otherwise well qualified.
Affidavit	A sworn statement, one that the Tribunal wants the respondent to sign, stating either that 1) he/she has told the truth, or 2) he/she will keep a document or testimony confidential.
Affirmative Decision	A finding by a tribunal that the marriage should be invalidated; meaning that the petitioner gets a favorable ruling. See Negative Decision.
Annulment	A Declaration of Nullity, which is an official document, whereby the Tribunal concluded that the marriage is no longer binding in the eyes of the Catholic Church. The word "annulment" does not appear in the Code of Canon Law.
Apostolic Signatura	An old institution at the Vatican dating to the 13th Century, which was originally comprised of a Signatura of Grace and a Signatura of Justice. Pope Pius X combined the two. The Supreme Tribunal of the Apostolic Signatura hears disputes from the Rota or recourse appeals against rotal decisions.
Appeal	A request to have a higher court hear the case, before the final Declaration of Nullity is issued. See Recourse Appeal.
Appellate Court	A higher level court which hears contested decisions from a lower court.
Arguments	See "Acts" of the Case. Could be called the "Sentence."

Auditor	An individual appointed by the judge to assist; an individual appointed to collect the proofs, in cases heard by a collegiate tribunal (3 judges); some auditors could also be judges.
Canon Law	Ecclesiastical laws recognized and approved by the Catholic Church for use in governing various activities, such as marriage and the priesthood.
Canon 1095	Commonly called a "loose cannon." It is the one most often cited as grounds for annulment because its wording seems to be all-encompassing. See Lack of Discretionary Judgment.
Citation	See "Summons" in this Glossary.
Competent Court	A court that has jurisdiction to render a ruling. See Tribunal Competency.
Consanguinity	Literally means "with the same blood." The Catholic Church forbids two people who share the same blood to marry. Per Canon #1091, it means those related by common blood in all degrees of the direct line, whether ascending or descending, legitimate or natural. By this definition, second cousins could not marry in the Catholic faith.
Declaration of Nullity	The official term the Marriage Tribunal uses for "annulment." It is an official piece of paper with a tribunal seal issued when the final decision is made to declare the marriage non-binding.
Decree	An official document or decision, sometimes in Latin, issued by a Tribunal or the Roman Rota.
Defect of Consent	The lack of ability to consent to marriage due to the presence of an impediment.
Defender of the Bond	The individual appointed by the judge to present and expound on all the reasons why a marriage should not be dissolved or declared null.
Diocese	A parish or a jurisdiction headed by a bishop, covering a specified geographic region, for the governing of the catholic churches in that region. An Archdiocese is headed by an Archbishop.

Eastern Orthodox Churches	Those churches belonging to a loose federation centering on the patriarch of Constantinople and adhering to the Byzantine Rite.
Eucharist	Communion; a sacrament that renews Christ's sacrifice of his body and blood; the memorial of Christ's Passover.
Evidence	Proof, such as the petitioner's questionnaire, the respondent's questionnaire and witnesses' statements. Also known as testimony.
Execution of Judgment	Carrying out the decision of the judge by actually issuing the Declaration of Nullity.
First Instance	The Tribunal that receives the petition, hears the case and issues a Notification of Decision. A first instance tribunal is most often located at a local diocese which is headed by a bishop.
Grounds	"Impediments" listed in the Code of Canon Law that tribunals cite as reasons for issuing a Declaration of Nullity.
Hierarchy	Levels of governing bodies of the Catholic Church: local diocese, regional diocese, Rota, Signatura and the Pope.
Impediment	A lack of something or a flaw that renders a person incapable of validly contracting a marriage. Examples: bigamy, impotence, extreme youth.
Judicial Vicar	The judge of a diocese who hears petitions or makes other rulings.
Lack of Discretionary Judgment (or Lack of Due Discretion)	A portion of Canon Law #1095 which is a ground often used as a basis for a decision that a marriage was not contracted validly because one or both of the parties did not have the ability to make a sound decision to marry. Also known as "lack of due discretion."
Libellus	The allegations written by the ex-spouse (petitioner) which become part of the petition. The libellus is supposed to be included with the summons letter.
Latin Rite	A ceremony or practice that pertains to the "Roman" Catholic Church as opposed to the "Eastern Orthodox," the "Anglican Church" or other variant of Catholicism.

Marriage	A covenant between a man and a woman for the procreation and education of offspring, raised by Christ to the dignity of a sacrament between the baptized.
Marriage Tribunal	A court of justice convened in a diocese to hear petitions involving marital covenants.
Natural Law	A body of laws or a specific principle held to be derived from nature and binding upon human society in the absence of or in addition to positive law (Webster's 7th Collegiate Dictionary). Natural law is written and engraved in the soul of each and every man, because it is human reason ordaining him to do good and forbidding him to sin. Natural law is nothing other than the light of understanding placed in us by God (Catechism of the Catholic Church).
Negative Decision	A finding by a tribunal that the marriage should remain valid; meaning that the petitioner does not get a favorable ruling. See Affirmative Decision.
Notification of Decision	Usually a one-page document that announces what outcome the judge at First Instance decided about the petition. Also called "Decision of Annulment." It should be accompanied by the "Acts of the Case."
Petitioner	The respondent's ex-spouse. He or she asks the marriage tribunal to declare the marriage sacrament invalid.
Procedural Error	A breach of canon law, which may be used to strengthen arguments in appeal. A preponderance of procedural errors may carry enough weight to get a decision overturned.
Procurator	A manager (or agent) of the tribunal's affairs, with power of attorney, who is not necessarily on the respondent's side. The individual appointed to represent any respondent who cannot respond or who chooses not to respond. (Not the same as an Advocate.)
Questionnaire	The common format used by the tribunal to obtain testimony and evidence from the petitioner, respondent and witnesses. A completed questionnaire amounts to a person's testimony. Some tribunals insist on a personal interview instead of having the individual complete a questionnaire.

Rebuttal	Informal term for “Additional proofs” which the respondent may submit after reading the petitioner's testimony.
Recourse Appeal	An appeal to a Third Instance Tribunal to reopen the case, after a Declaration of Nullity was issued. Respondents should petition the judge to revoke the Declaration of Nullity and reopen the case; this action would suspend the execution of the judgment.
Regional Diocese	An ecclesiastical province consisting of several dioceses, presided over by an archbishop, sometimes known as a Metropolitan. Sometimes called an Archdiocese. The tribunal of a regional diocese often serves as an appellate court.
Res Judicata	A latin phrase translated as "the thing has been judged," meaning the decision is final. However, annulment cases are status of persons cases, and such cases never become final - there is always recourse to appeal a status of persons case to the next higher court.
Respondent	The person against whom a petition for annulment has been issued. Person in the annulment proceedings who has the opportunity to defend the sacramental validity of the marriage.
Rota	A tribunal established by the Roman Pontiff (Pope) to receive appeals. It is located at the Vatican in Rome, Italy. Spelled with the letter "L" when used as an adjective in the phrase "Rotal Court."
Sacraments	Signs or means which express and strengthen the faith, render worship to God and effect the sanctification of humanity. The seven sacraments are: Baptism, Confirmation, Penance, Marriage, Eucharist, Ordination (holy orders), and Extreme Unction (anointing the sick and last rites).
Second Instance	The next tribunal in the hierarchy that receives the Notification of Decision from the First Instance Tribunal. The Second Instance is tasked to confirm (or deny) the decision of the First Instance. A second instance court is often found at a regional diocese.

Sentence	A lengthy history of the annulment case, with all arguments and findings. It is written by the Second Instance Tribunal and sent back to the First Instance Tribunal, for imparting to the petitioner and respondent, along with the Declaration of Nullity, if an annulment was granted. May also be called the "Judgment" (or Acts or Arguments).
Signatura	See Apostolic Signatura.
Substantive Argument	"New and grave proofs" which are normally needed to strengthen an application for a recourse appeal at Third Instance.
Substantive Error	Major mistakes that may occur in the arguments, in the evidence or Acts of the Case. When reviewing the testimony (or Acts) take note of any substantive errors, so you can adequately prepare a rebuttal. Compare with procedural errors which are breaches of canon law.
Summons	A written notification (known as a citation) to "appear" in court; an announcement or letter asking if the respondent wishes to give testimony in the petitioner's request for an annulment.
Testimony	The answers to the questionnaire; the respondent's "story;" the evidence for a case from all parties, including the petitioner, respondent and witnesses.
Third Instance	The next to last level in the Tribunal hierarchy to which recourse appeals are lodged. The Rota and the Supreme Tribunal of the Apostolic Signatura are the two primary courts of Third Instance. See Recourse Appeals.
Tribunal	A court of justice convened to hear a case; the seat of a judge.
Tribunal Competency	Similar to jurisdiction. A tribunal exercising competency to hear cases has permission to do so under Canon Law. There are 4 choices: a) the tribunal of the diocese where your former spouse, the petitioner, lives; b) the tribunal where you (the respondent) live; c) the tribunal where the marriage took place; or d) the tribunal where the majority of the evidence is located or where most of the witnesses live (#1673).