

**PETITION TO BISHOP TO PURSUE RECONCILIATION,
OR SEPARATION**

Reconciliation

1) Petitioner asks The Most Reverend _____,
[Arch]Bishop of _____, to cite the Respondent-spouse
_____ for the purpose of implementing the pastoral means of
agreement and conciliation, in order for the conjugal life to be reestablished peacefully,
according to the prescript of canon 1695. As described in canon 49, Petitioner asks the
Bishop to issue a singular precept urging the Respondent-spouse to uphold the lawful
obligations to maintain common conjugal life; and instructing the Respondent-spouse that a
judge in the civil forum has no competence to relieve the Respondent-spouse of the
obligation to maintain common conjugal life.

2) Parties contracted marriage on date of _____ at church of
_____. The Church was in the state of _____ in the city of
_____ (Attached Certificate of Marriage). On the date of
_____, the Respondent-spouse abandoned the conjugal life, or filed for civil
divorce. Further description is provided in the attached: *General Facts and Circumstances
that will Prove the Allegations*.

3) Petitioner will participate in mediation in hopes of restoring/maintaining the
common conjugal life. Petitioner asks the Ordinary to issue a precept in accord with canon
49, instructing the Respondent to cooperate in mediation. In accord with canon 1446 §2,
Petitioner asks that the parties employ reputable persons to mediate between the parties.
[(Optional) Petitioner proposes that _____ be employed because

_____]

4) If Respondent-spouse remains unwilling to restore common conjugal life, a report to
the Bishop from the reputable person will provide the Bishop with insights about the reasons
Respondent-spouse chose to separate.

Separation Decree

5) In conformity with canon 57 §1, in consideration of canons 1151-1155, if
Respondent-spouse does not restore common conjugal life, Petitioner asks the Ordinary to
issue a singular decree of separation of spouses based on the ground of abandonment
(*malitiosam desertionem*), to be in effect for an indefinite period of time ending when the
Respondent-spouse chooses to cease the abandonment. As required by canon 1696, “Cases

concerning the separation of spouses also pertain to the public good; therefore, the promoter of justice must always take part in them according to the norm of canon 1433.” Petitioner asks that parties be instructed about a separation plan that is in accord with divine law specifying support (*mutuum adiutorium*) and preventing scandal to children.

6) Petitioner asserts that Petitioner has committed no offenses against the Respondent-spouse meriting the separation of spouses. If the Respondent-spouse suggests that another ground for separation exists (other than abandonment by the Respondent), then Petitioner upholds the right to be informed, in a general way, of the facts and proofs alleged by the Respondent-spouse to support another ground for separation.

Basis in Law and Rights

7) As described in canon 221 §1, the Petitioner is pursuing and vindicating rights associated with the Respondent-spouse’s obligations to maintain a common conjugal life.

8) The marriage of Catholics is governed not only by divine law but also by canon law (cf. c. 1059).

9) The parties’ marriage must be assumed valid until proven otherwise (c. 1060).

10) The Petitioner claims the right to the common conjugal life and rights to those things that belong to the partnership of conjugal life. The Respondent-spouse is bound by a special duty to work through marriage and family to build up the kingdom of God. Respondent-spouse is renegeing on obligations (cf. cc. 104, 226 §1, 1151, 1135). Petitioner asserts that Respondent-spouse has no legitimate reason for separation, no *legitime separationis ratione vel alia iusta de causa*.

Canon 104. Spouses are to have a common domicile or quasi-domicile; by reason of legitimate separation or some other just cause, both can have their own domicile or quasi-domicile.

Canon 1151. Spouses have the duty and right to preserve conjugal living unless a legitimate cause excuses them.

11) If a party broke off an engagement and refused to marry ones' fiancée, canon 1062 §2 shows that an action to repair damages could be warranted. The Respondent-spouse is likewise responsible to repair damage caused by breaking up after the wedding.

12) (Optional) For children born to this marriage, or adopted, the Petitioner claims the parental right to educate children in all ways natural to any child born to married parents; and the Petitioner claims the right to take care for the physical, social, cultural, moral, and religious education of children (cf cc. 226 §2, 1136).

13) (Optional) Divorce is a grave offense against the natural law, immoral, and gravely wounds the deserted spouse and children (CCC 1607, 2383-2386, *damna gravia, profunde vulneratis*, citing *CIC* cc. 1151-1155).

- *Decretum* 126 of the Third Plenary Council of Baltimore was promulgated for the United States in 1885: “We lay down the precept to all those, who are married, that they not enter civil tribunals for obtaining separation from bed and table, without consulting ecclesiastical authority.” Canon 1692, the procedural law for cases of separation of spouses of CIC 1983, limits the circumstances in which the woman-respondent can be legitimately separated or file for civil divorce. The universal precepts in canon 1692 do not derogate the requirement to have the bishop’s permission before filing in the civil forum, as specified in *decretum* 126 of the Third Plenary Council of Baltimore, because the new universal law expressly allows for provisions in particular places. Furthermore, “[a] universal law, however, in no way derogates from a particular or special law unless the law expressly provides otherwise” (c. 20).
- If, however, the United States had no particular law specifying procedures necessary before a party files for civil divorce or civil separation, the enactment of canon 1692 in the year 1983 would bind all parties in the USA to have the bishop’s permission before filing for divorce. A bishop is not able to dispense from procedural laws (c. 87 §1). The consultants drafting the canons said the church cannot renounce its own duty and right over matrimonial separation cases, otherwise “it would follow that a separation against the divine law would frequently be imposed or denied” (*Communicationes*, 40 (2008). April 19, 1971. p. 147). Furthermore, the commission decided that observing the requirement to get the bishop’s permission must be a precept, not a precaution (*Communicationes*, 11 (1979). March 31, 1979 p. 273). In the 1984 Spanish work published by *Libreria Editrice Vaticana*, *Cases for the Separation of the Spouses According to the New Code*, Carmelo De Diego-Lora wrote, “Can. 1692 §2 seems to require the previous permission of the Bishop of the diocese of the residence of the spouses – *perpensis peculiaribus adiunctis* – so that the spouses can approach the civil forum” (English Translation, Mary’s Advocates). The sixth edition of the Code of Canon Law Annotated from the University of Navarra, published in Spanish in 2001, shows, “Since divorce laws have proliferated in many countries, the need to request the diocesan bishop’s authorization is a necessary precaution, which prevents the fostering of trials whose judgments violate precepts of divine law, to the detriment of the spouses and with the risk of scandal to others” (English translation published in 2004).
- Civil divorce is legally and factually known to the relatives, friends, and faith community of those involved. Separation (regardless of whether it is accompanied by a civil divorce) is subject to the power of governance of the Church. Therefore, a Catholic

should not exercise on his own behalf the power of ecclesiastical governance, or the pastoral and administrative power of the bishop.

- Because separation of spouses involves the public good, it requires the involvement of the Promoter of Justice (*cf.* c. 1696 CIC). When the Respondent-spouse initiates a civil divorce without the bishop's permission, there is no mechanism to insure the required involvement of the ecclesiastic authority to promote justice and defend the public good, prevent scandal, and defend of the rights of the children and other spouse.

Initiate Process to Inflict Penalty (Optional Section)

14) In accord with canon 57 §1, the Petitioner proposes plea to obtain a decree initiating the process to inflict or declare a penalty. The Respondent-spouse has illegitimately abandoned marriage.

15) (Optional) The Petitioner is accusing another who should be admonished or penalized, because the other is an explicit, formal, cooperator with objective evil. The Respondent-spouse is the primary agent of morally wrong behavior: marital abandonment and all that it entails. The other accused is a formal cooperator because the other is a willing participant explicitly supporting and enabling the evil. The other is also a necessary, material, cooperator with objective evil, because without the other's material cooperation, the wrongful marital abandonment or divorce could not continue to occur.

16) The Petitioner asks the Ordinary to exercise fraternal correction, rebuke, or other means of pastoral solicitude in an attempt to sufficiently repair the scandal, restore justice, and reform the Respondent(s) (*cf.* c. 1341).

17) If the Respondent(s) does not repent, have the firm resolve to stop offenses, and make, or at least seriously promise to make, reparation for damage and scandal, the Petitioner proposes punishments would be appropriate in accordance with the law:

Canon 1315: Person in legislative power can strengthen divine or ecclesiastical law.

Canon 1319 §1: Insofar as a person can impose precepts in the external forum in virtue of the power of governance, the person can also threaten determinate penalties by precept, except perpetual expiatory penalties.

Canon 1371, 1^o: Respondent(s) rejects moral teaching mentioned in Canon 752.

Canon 1371, 2^o: Respondent(s) does not obey command of his Ordinary.

Canon 1393: Respondent(s) violates obligations imposed by Penalty.

Canon 1397: Respondent(s) gravely wounds *graviter vulnera* the Petitioner (Optional) and children.

Canon 1399: Respondent(s) is externally violating divine and canon law.

Repair Material / Financial Damages (Optional section)

18) (Optional) In addition to proposing that penal action should be initiated against the Respondent(s), the Petitioner brings a contentious action, per canon 1729 §1, and alleges that those Respondent(s) are bound to **repair material damage** caused. The Petitioner has lost significant money as a direct result of the actions of the Respondent(s). Had the Respondent-spouse only broken a promise to marry the Petitioner, breaking that promise could have given rise to an action to repair damages (c. 1062 §2). In today's action, the damages are far greater, because the Respondent-spouse is breaking the marital promises and the Respondent(s) are destroying the Petitioner's family, and the Petitioner's marital life.

Prevent Sacrilege and Scandal (Optional section)

19) The Petitioner alleges that the Respondent-spouse is in grave sin because the Respondent-spouse has unlawfully reneged on marital obligations and is destroying the parties' marriage and family. The former Prefect of the Apostolic *Signatura*, Cardinal Raymond Burke, wrote a book published in 2012 wherein he provided instruction regarding those in grave sin, Divine Love Made Flesh, The Holy Eucharist is the Sacrament of Charity:

... If we receive holy Communion and then think, speak, and act in a way which betrays Christ, then we give scandal to others. We lead them to think that it is all right to receive Christ in to our soul and, at the same time, to ignore or contradict His teaching by the way we live. (page 176).

20) If the Respondent-spouse continues to persevere in the grave manifest sin of marital abandonment [or divorce], the Petitioner asks the Ordinary to advise the Respondent-spouse to not receive Holy Communion (c. 916), and to instruct that Holy Communion should be denied (c. 915).

21) (Optional) In accord with the same canons, the Petitioner asks the Bishop to advise other Respondent to not receive Holy Communion, and to instruct that Holy Communion should be denied.

Response to Respondent-Spouse's Petition for Decree of Invalidity (Optional Section)

Request Suspension or at least Simultaneous Proceeding

22) The Petitioner received a notice dated _____ from the Tribunal of the diocese of _____ advising the Petitioner that the Respondent-spouse has asked for a decree of invalidity of the parties' marriage: case number _____.

23) As an incidental matter in the nullity case, the Petitioner is asking the judge to suspend the cause for nullity until the Respondent-spouse restores common conjugal life, or until the Respondent-spouse obtains and follows instructions from the local Ordinary delimiting parameters of a separation plan that is not contrary to divine law for parties' special circumstances (*non contraria iuri divino [pro] perpensis peculiaribus adiunctis*).

24) Observing canon 1590 §2, the petitioner requests an interlocutory judgement answering Petitioner's request for a suspension of the nullity case. If Petitioner's request for suspension of nullity case is denied, Petitioner would find that the denial has the force of a definitive judgement as described in canon 1618. The denial prevents a trial that could give immediate relief to the Petitioner in the form of instructions to the Respondent-spouse about the parameters of a separation plan that is not contrary to divine law (*cf. can. 1692 §2*). The present separation arrangement obtained by the Respondent-spouse in the civil forum is contrary to divine law and entangles itself with effects of marriage that are beyond the merely civil effects.

25) If the tribunal judge will not suspend the Respondent-spouse cause for nullity, the Petitioner raises the actions herein as a counterclaim. As required by canon 1463, the counterclaim has been made before thirty days have passed after the joinder of the issue.

26) The Petitioner asserts that the Respondent-spouse's allegations of invalidity of parties' marriage are unfounded and the marriage is repairable. Even in a definitive sentence in a nullity case, the decree must instruct the parties of their moral obligations toward each other and their children (*cf. CIC 1983 c. 1689. Mitis Iudex c. 1691 §1*). The law strongly urges that a judge determine that conjugal life cannot be restored before he accepts a petition for nullity of marriage.

27) PETITIONER:

Petitioner's Full Name: _____

Address _____

City, State, Zip _____

28) RESPONDENT-SPOUSE:

Respondent-Spouse Name: _____

Address _____

City, State, Zip _____

29) RESPONDENT-2:

Respondent-Spouse Name: _____

Address _____

City, State, Zip _____

SIGNATURE

_____ Date _____

Printed Name of Petitioner

Signature of Notary

30) Notary Seal Printed Name of Not _____