Man-Petitioner

The Tribunal of the [2nd Instance]

xx August 2017

Regarding: Nullity of Marriage, XXXXXX, [First Instance] Tribunal

INTRODUCTION – COMPLAINT NULLITY OF SENTENCE

1. Man-Petitioner is introducing a complaint of nullity of sentence to the second instance tribunal of the Diocese of [Second Instance], and is seeking a sentence declaring that the first instance sentence issued by the Diocese of [First Instance] is null. Man-Petitioner asks for the ordinary contentious process. It would be difficult for him to participate in an oral contentious process judged in [Second Instance].

2. In this cause, the tribunal issued two totally different versions of the Definitive Decision. The version sent to the Woman-respondent, who was declared absent from the trial, was much longer than the version sent to the man. Enabled by the USA civil no-fault divorce system, the Woman-Respondent has caused much grave financial and moral harm to the Man-Petitioner and their children.

THE LAWFUL RIGHT UPON WHICH PETITIONER BASIS HIS CASE

THE LAW

3. Within ten years from the date of the publication of the sentence, a complaint of nullity mentioned in canon 1620 can be brought to judge in [Second Instance] who issued the last sentence (cc. 1621 & 1624). The second instance sentence is null if the first instance sentence it confirmed is null. If the process immediately leading to the issuance of the second instance sentence is defective, the second instance sentence is null. (See *The Complaint of Nullity in Marriage Nullity Cases: A Hands-on Guide* published in Essays in Honor of Sister Rose McDermott, page 315).

4. The deadline in which a party is required to notify the second instance tribunal of the intention to appeal does not start until after the sentence has been published to the party. The first

instance sentence has no force before publication even if the dispositive part is made known to the parties. Publication occurs either by giving a copy of the sentence to the party or his procurator (cc. 1614, 1615). Time limits for appeal do not run until after the party obtains a copy of the definitive sentence (c. 1634, §2). The notification of sentences must be made through the public postal services or by some other very secure method according to the norms established in particular law (c. 1509).

5. Before the appellate tribunal confirms the first instance decision, they are to weigh carefully the observations of the parties, if there are any (c. 1682, § 2).

6. A cause begins when the party who wants the trial presents to a judge a *libellus* (c. 1502). The *libellus* must include at least generally, the facts and proofs, which will prove the allegations (c. 1504, 2°). *Dignitas Connubii* restates that a *libellus* for a cause of nullity of marriage must "indicate at least in a general way the facts and proofs on which the petitioner is relying in order to demonstrate what is being asserted" (Art. 116 §1, 3°).

7. If a judge supersedes the party and investigates a ground which neither party wanted investigated, the judge is acting beyond his authorization. See Professor Paolo Moneta's teaching on 9 January 2006, at a study day at the Pontifical University of the Holy CXX:

> The necessity of a petition by a party flows from the basic rule that only the spouses are authorized to present an action of nullity of their own marriage. Such an action is not intended in generic terms, but is also precisely identified by the *causa petendi* [cause of the petition], by the reason on which the petition of nullity is based. It pertains only to the spouses, as holders of the action, to bring such a cause and determine the concrete modalities to indict the marriage itself. The judge may not supersede them in determining the reason on which the decision itself should be based; even if he were convinced he could better meet their interests in obtaining a declaration of nullity. (*Determination of the Formulation of the Doubt and Conformity of the Sentence*. p. 96-67).

8. The judge is not to proceed to collect proofs before the joinder of the issue (c. 1529).

9. In cases of defect of consent because of mental illness, the judge is to use the services of one or more experts unless it is clear from the circumstances that it would be useless to do so (c. 1680). Causes of defect of consent due to grave lack of discretion of judgment are only applicable if a party that suffered from a grave psychic anomaly at the time of consent; "difficulty in" […] "realizing a true community of life and love" is not proof of invalidity of

marriage (Pope's Addresses to the Roman Rota 2009, 1988, 1987). Saint Pope John Paul II taught that a marriage might break-up due to a party's negligence:

> For the canonist the principle must remain clear that only incapacity and not difficulty in giving consent and in realizing a true community of life and love invalidates a marriage. Moreover, the breakdown of a marriage union is never in itself proof of such incapacity on the part of the contracting parties. They may have neglected or used badly the means, both natural and supernatural, at their disposal; or they may have failed to accept the inevitable limitations and burdens of married life, either because of blocks of an unconscious nature or because of slight pathological disturbances which leave substantially intact human freedom, or finally because of failures of a moral order (1987 Address to Roman Rota).

10. The definitive sentence must "set forth the reasons or motives in law and in fact on which the dispositive part of the sentence is based" (c. 1611, 3°). In must "briefly relate the facts together with the conclusions of the parties" (c. 1612, 2°). The definitive sentence is remediable null if it lacks signatures prescribed by law, and the law requires that it conclude with the signature of the judge and the notary (cc. 1622, 3°, 1612, 4°).

11. A sentence is irremediably null if the "trial took place without a judicial petition mentioned in canon 1501" (c. 1620, 4°). The petition described in canon 1501 must be in "according to the norms of the canons." Canon 1504, 4° requires that the *libellus* must indicate "at least generally, the facts and proofs which will prove the allegations. Answers to a questionnaire are not a *libellus*. In the decree of *coram* Burke on 15 November 1990, he described the Roman Rota's response to a document that a first instance tribunal sent when asked to provide the *libellus* for a cause: "What X subsequently sent does not qualify to be termed a *libellus*, since it is just the petitioner's answers to a questionnaire, where he simply explains the difficulties that occurred in the marriage and its breakup. It does not even clearly petition for nullity and no grounds are given on which an annulment could be based" (par. 22b). *Coram* Burke's sentence was subsequently published in *Studia Canonica* (Vol. 25. 1991, pp. 509-517).

12. A sentence is irremediably null if someone acted in the name of another without a legitimate mandate (c. 1620, 6°). Before the procurator and advocate undertake their function, they must present an authentic mandate to the tribunal (c. 1484, §1).

13. A sentence is irremediably null if a party's right of defense is denied (c. 1620, 7°)

14. "The advocate and procurator are bound according to their function to protect the rights of the party" (yr. 2005, *Dignitas Connubii*, Art. 104, §1). Canon 1486, §2 shows that after the

definitive sentence has been issued, the right and duty to appeal, if the mandating person does not refuse, remains with the procurator.

15. An advocate is required to be a doctor in canon law or otherwise truly expert (c. 1483). Advocates and procurators, who through culpable negligence illegitimately place or omit acts of ecclesiastical function, with harm to another, are to be punished, bound to repair harm, and can be suspended from practicing their function (cc. 128; 1389; 1391, 2°; 1470, §2; 1488). A calumniator can be forced to make suitable reparations (c. 1390, §3). Advocates and procurators who betray their office for any reason are to be "suspended from the exercise of legal assistance and punished with a fine or other suitable penalties" (c. 1489). It pertains to the *praeses* of the college to "discipline those taking part in the trial in accordance with cann. 1457, § 2; 1470, § 2; 1488-1489" (*D.C.* Art. 46 4°).

16. A party to a marriage is obligated to maintain the common conjugal life unless a legitimate reason excused the party (cc. 104, 1151). All marriages must be presumed valid until proven otherwise (c. 1060). Cases of separation of spouses must involve the Promoter of Justice and cannot be adjudicated until after the use of "pastoral means to reconcile the spouses and persuade them to restore conjugal living" (cc. 1696, 1695).

17. *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).

18. 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 consultors 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 20xx).

IRREGULARITY – TWO VERSIONS OF THE DEFINITIVE SENTENCE

19. XX years after the cause was decided on xx January 20xx, the Man-Petitioner learned that there were two different version of the Definitive Decision issued. The 6-page version that was made known to the Man-Petitioner sometime after October xx, 201x, is the decision against which he is making a complaint of nullity of sentence. *See Ex. 1*. The unique Respondent-Woman's version was sent to her with cover letter. *See Ex. 2*. While the 6-page version of the decision was published to the Woman-Respondent, it was never published to the Man-Petitioner by the Tribunal of the Diocese of [First Instance].

WITNESSES AND COMPLAINTANT'S PROPOSED QUESTIONS (C. 1561)

20. [Wife] (neé [Maiden]), residing at [Address] is a witness to whom the Man-Petitioner proposes the judge should ask to whom did she fax the 6-page Definitive Decision on October xx, 201x. *See Ex. 1 & 2*.

SENTENCES ARE ARGUABLY NULL BASED ON THE FOLLOWING GROUND

21. Man-Petitioner never signed a mandate designating the Rev. Mr. [Deacon] as his procurator or advocate, as intimated (but not proven) by the missing check on *Checklist for the Acceptance of Application*. *See Ex. 3.*

22. The trial took place without a precise *libellus* that must contain, in general, the facts upon which the petitioner is relying to demonstrate nullity. *See Ex. 6.*

23. The Man-Petitioner' right of defense was denied because a second instance sentence was issued without the first instance tribunal publishing the sentence to the Man-Petitioner by sending him a copy in the mail. The judge only sent him the dispositive part. If the judge satisfied his obligation by mailing the definitive sentence only to a properly mandated procurator, the man was never informed of this. Therefore, the man did not know about what to make observations, and against what to make arguments.

24. The Man-Petitioner's right of defense was denied because, when he was mailed the document named *Definitive Decision* by the first instance judge (after the second instance affirmative decision), the *Definitive Decision* mailed by the judge showed "The Law" section in Latin, resulting in the Man-Petitioner being invincibly ignorant of that of which he was being accused. The seventy-word "The Argument" section contained no facts of parties' particular circumstances, resulting in the Man-Petitioner being invincibly ignorant of the alleged facts upon which the judge was relying to demonstrate that the man had grave psychic anomaly or mental illness when consenting to marriage. *See Ex. 11.*

25. The Man-Petitioner's right of defense was denied, furthermore, by all the occurrences described below.

REQUEST FOR PROCURATOR ADVOCATE TO BE DISCIPLINED

26. If the Rev. Mr. N. [Deacon] was mandated as an advocate, Man-Petitioner asks for him to be disciplined by the *praeses* of the college because of culpable negligence of advocate's duties:

i. To inform the Man-Petitioner, during the divorce, of the Woman-Respondents obligation to maintain the common conjugal life, and Man-Petitioner's option to vindicate his rights to the common conjugal life by invoking the reconciliation canons of the Church relative to separation of spouses (cc. 1695, 1692, 104, 1151-1155);

ii. To inform the Man-Petitioner that the first document to be submitted to the Tribunal should be the *libellus* showing the ground upon which the man is basing his allegation of nullity of his marriage, and, in a general way, the facts upon which he is relying to demonstrate nullity based on the ground alleged;

iii. To inform the Man-Petitioner that the tribunal should not be collecting proofs and testimony until after the joinder of the issue (See testimony collected by judge prior to Petition being written, *Ex. 4*);

iv. To inform the Man-Petitioner of anything about the meaning of "defect of discretion on the part of the petitioner," which resulted in the Petitioner being invincibly ignorant that he was alleging that he, himself, had a mental illness and grave psychic anomaly (*See Ex. 6*);

v. To inform the Man-Petitioner that "the Acts of the case are subject to review" means the all the proofs collected in the case. This phrase is not one understood by the average reader, and as a result, the Man-Petitioner was invincibly ignorant that he was waiving a right to read testimony against him, particularly testimony by the expert witness Licensed Marriage and Family Therapist (*See Ex. 7*);

vi. To inform the Man-Petitioner that a copy of the first instance sentence should have been mailed to the Man-Petitioner or the Procurator (*See Ex.8*), and that it is necessary for the Man-Petitioner, or his Procurator, to have a copy of the definitive sentence prior to the sentence having any force, and prior to the countdown of the deadline before which appeal must be made;

vii. To appeal against the version of the definitive decision that had a seventy-word argument section, because it failed to set forth the reasons or motives in law and in fact on which the dispositive part of the sentence is based, and it failed to briefly relate the facts together with the conclusions of the parties (*See Ex. 11*);

viii. To appeal the version of the definitive decision that was 6-pages long, because it lacked the signatures of the judge and the notary, and because the man argues that it contains false statement about his mental and psychological ability to understand, at the time of consent, the essential matrimonial rights and duties (*See Ex. 1*).

27. If the Rev. Mr. [Deacon] was mandated as a procurator, Man-Petitioner asks for him to be disciplined by the *praeses* of the college because of culpable negligence of procurator's duty to appeal when the mandating person does not refuse to appeal. The procurator never contacted the Man-Petitioner any time near the issuing of the definitive sentence to learn the Man-Petitioner's intentions, so the Man-Petitioner did not "refuse to appeal."

REQUEST FOR JUDGE TO BE DISCIPLINED:

28. If there was no advocate or procurator mandated for the Man-Petitioner, all the complaints against the advocate and procurator are being made against the judge who directed the trial without following the law that is designed to protect the right of defense of both parties.

GENERALLY, THE FACTS AND PROOFS

PETITIONER'S CASE [FIRST PERSON]

29. Herein are contained, in general, the facts and proofs that support my allegation that the sentences are irremediably null. I look forward to presenting further proofs after your joinder of the issue is complete. Rather than appearing before a judge in [Second Instance], I ask to participate in a judicial exam via telephone, which would be a legitimate manner, or provide further written proofs (cc. 1528, 1530, 1558 §3).

30. In the United States, divorce proceedings are an arduous and torturous process that typically takes years, during which the party who seeks to keep the family together is defenseless and often systemically abused while the party who reneges on marriage vows and promises is encouraged and incentivized by federal, state, and county processes and agents in addition to others. During divorce proceedings, I contacted Deacon N. [Deacon], who had prepared [Respondent-Woman] and me for marriage prior to our wedding, and conducted our premarital investigation (page 13, Testimony collected by judge prior to Petition, titled "Application for Annulment"). I had contacted [Deacon] to see if there were any Church records from our premarital preparation that would rebut harmful false allegations made by Respondent-Woman. In civil court papers and in various reports to others, including our children, then aged 11, 7, and 4, Respondent-Woman alleged, and told others including our children, then aged 11, 7 and 4, that I had never wanted children and had pressured her to abort each one of them—a horrific and corrosive lie. [Deacon] agreed to obtain premarital archives, including our premarital inventory, stored [in archives]. He asked me to meet to discuss these matters. In our next meeting, he reported that the pre-marital inventory revealed greatest dissonance concerning children and finances (page 13, Testimony collected by judge prior to Petition). The document clearly indicated that we were candidates for annulment, he said. He provided me with a book on annulment and additional paperwork—an annulment application, I believe. As I recall, he

indicated that he was authorized to advocate for the annulment, as a Church lawyer. The divorce was still nearly a year away. That concluded our meeting.

31. For the record, let me clarify that late in our preparation for marriage between 1983 and 1984, we learned of the connection between the Woman-Respondent' mother and [Deacon]. He was the son of the woman that [Wife]'s biological father married after [Wife]'s parents were divorced. [Wife]'s father had developed an inappropriate relationship with [Deacon]'s biological mother while married and cohabiting with his wife, [Wife]'s biological mother. [Deacon]'s biological mother and [Wife]'s biological father would seek an annulment of the marriage between [Wife]'s biological father and mother so that their marriage could recognized by the Catholic Church.

32. Regarding any dissonance concerning children and finances, I know now, in retrospect, that differences concerning child rearing and finances are not grounds for permanent separation of Catholic spouses and do not invalidate a Catholic marriage. My marriage was breaking up because Woman-Respondent, [Wife], wanted a divorce that I did not want. After making false allegations against me, [Wife] obtained support for her divorce action from her mother and others. She refused to cooperate with anyone expert in helping couples reconcile.

33. In meeting with [Deacon], never did I report anything that would suggest I suffered with a mental illness or grave psychic anomaly that made me incapable of fully consenting to a marriage that was permanent, open to children, sexually faithful, and oriented toward the good of the spouses. Indeed, I was thoroughly transparent about childhood family travails and adversities that I had successfully mastered by seeking professional help over the years as an adult. I provided authoritative documentation attesting to my maturity and mental stability. In addition, I provided five witnesses who could substantiate this.

34. When completing the questionnaire that [Deacon] provided to begin the inquiry concerning validity of our marriage, never did I propose, even in laymen's terms, a ground for nullity of our marriage. My xx-page narrative did not show anywhere, in a general way, a summary of the facts and proofs upon which I was relying to demonstrate invalidity of our marriage based upon the canonical ground for nullity that was shown on the pre-written Petition the tribunal judge instructed me to sign.

35. At a time when I sought only to refute false allegations my spouse had advanced in court and to others, [Deacon] advocated for annulment as an opportunity for healing. Never was

there any suggestion of a path for reconciliation. I had no reason to doubt his competence and integrity as a representative of mother Church. He intimated that he was a canon law expert that could manage my case. This was a time of horrific suffering and sorrow. I was being removed from my home and the lives of my children. False allegations were attacking my personhood. I do not recall meeting again after this last meeting. At least eighteen months would pass before I would complete the paperwork, which I believe I mailed [Deacon]. To the best of my recollection, [Deacon] never explained the power he would have to act on my behalf as my *alter ego*. He did not explain what a procurator was, how the procurator served the process, and why. I do not recall any discussion about signing a mandate designating [Deacon] as my procurator, and that this would waive many of my right to be involved in the process, or informed about subsequent developments. I would never knowingly relinquish such basic rights. [Deacon] did not explain how the annulment process would parallel the divorce process, only with less transparency, less informed consent, less counsel and communication, and less empathy. How could any Catholic imagine this response from their Church?

36. When I opened the letter (*Ex. 5*) from the Presiding Judge, Rev. Robert Williams, asking me to sign his enclosed petition (*Ex. 6*), no one explained to me the significance of a court expert as a key actor in the annulment process. As a physician with advanced credentialing and mental health experience, I was intimately knowledgeable about the mental health field and the significance of its diverse credentialing categories. I had no way to know an unknown individual with meager credentials as a mental health expert, or even as an authority on marriage, was empowered to offer testimony supporting allegations that I had a grave psychic anomaly or mental illness, especially when I had provided voluminous, authoritative documents and testimony from highly credentialed expert witnesses and knowledgeable family and friends, and detailed life history, that refuted such a conclusion. When signing the pre-written Petition, I did not know that by specifying the ground for invalidity as my "defect of discretion," I was truly giving my own personal testimony, attested against myself, that I was mentally ill or suffering from a grave psychic anomaly that made me incapable of understanding the essential matrimonial rights and duties of marriage. From my perspective, I was following the pastoral directives of my Church's ordained clergy leaders, both my deacon and the diocese Tribunal judge and priest, each in *persona Christi* in their roles defending the truth of the sacrament of

matrimony. The annulment process was presented to me as mother Church's response to my pain, after having my family scourged and dissolved by unilateral no-fault divorce.

37. When I opened the letter from the judge telling me he was nearly finished collecting testimony (*Ex. 7*), I thought he was telling me that my witnesses had completed their testimony. I had no idea that there might have been testimony about me from [Therapist-name] Licensed Marriage and Family Therapist, who I would not regard as having any expertise or authority to opine in my case. If I had known that, I would have wanted to know what she opined about my mental health. As a medical doctor myself, I would have objected to her credentials as an expert evaluating me. When I read in the judge's letter that, "the Acts of the case are subject to review by the principal parties and/or their Procurator/Advocates," I did not know to what this phrase was referring. I did not understand that this was an overt invitation to read, or learn about, documents gathered, including a report of an alleged expert marriage and family therapist about my mental health.

38. When I opened the letter informing me that the [First Instance] Tribunal had completed its decision (*Ex. 8*), I did not know that the decision had no force until after I had been given my own copy. Nor did I know that time limits for appeal do not run until after I had been given my own copy. If I had known the decision had no force until after I had received my own copy, I would have insisted that I be sent a copy. I did not understand that the process institutionally denied participants of informed consent and authentic knowledge of what its procedures comprised and how they would affect one's life. Such a lack of transparency added further grievous harm to the secular violence of divorce and family dissolution. The judge had written, "Though it is not necessary for you to have a copy of the decision, it is an option available to you." If, instead, the judge had satisfied his lawful obligation by only mailing a copy to a properly mandated procurator, it would be negligent for the procurator to never tell me that he received a sentence, or not to inform me of its substantive elements. Furthermore, it would be negligent for the judge to keep secret from me the fact that he mailed the definitive decision to a procurator, instead of mailing it to me. I have no recollection of whether, or not, I signed a mandate designating [Deacon] as my procurator. However, if I had, it was negligent for him not even to try to assure that I knew about the substantive sections of the sentence. In such an important matter concerning body, soul, mind, and spirit for two spouses and their dependent

children, withholding full disclosure and pastoral counsel appears reckless and wanton violation of our Church, the spouse of Christ.

39. Sometime after xx October 201x, a copy of a ten-page fax came into my possession. It had a header showing sender was Woman-Respondent, "[Wife]" and sender's number was [Wife] XX' office fax number, xxx-xxx-xxxx. The fax contained a cover letter to [Wife] XX from our Tribunal Judge, Rev. [Tribunal Judge] (*Ex. 2*), wherein he wrote, "Enclosed is a copy of the Definitive Decision."

40. If any time prior to seeing the 6-page version of the *definitive decision* sent to Woman-Respondent, [Wife], I had been informed that I was being found incapable for psychological reasons of understanding and exercising my will to choose the essential matrimonial rights and duties because of my difficult upbringing, I would have firmly objected and found more witnesses to corroborate my objections to these conclusions as untruthful. Moreover, in my answers to their preliminary questionnaire and my documentary proofs, I included a forensic evaluation ordered by the civil court judge hearing the lawsuit for divorce, in which I was found to be in good mental health. This report was quoted in the Woman-Respondent's version of the definitive, which stated that any emotional scars were "not in any way debilitating" (*Ex. 1, p. 5*). If I knew my mental health was in question, I would have wanted to appeal and provide more proofs defending my ability to consent to marriage. By keeping secret from me the substantive alleged facts to support an affirmative decision, the tribunal denied my right of defense. If an annulment was warranted, as [Deacon] seemed to be directing me, its grounds had to have a solid foundation aligned with Jesus' teaching that *"Therefore, what God has joined together, no human being must separate."* By keeping secret from me that, with their pre-printed Petition, I was accusing myself of having a mental problem or grave psychic anomaly at time of consent, the tribunal operations appears to be unjust and hostile to Jesus' teaching in Mt 19:4-6. Furthermore, the much more detailed definitive sentence sent to Woman-Respondent contained conclusions that potentially maligned me as a person and a professional, especially since she had already made grievous false allegations against me in the public square and engaged state powers that were spiritually, emotionally, physically, and administratively tantamount to violence. As a medical professional and a community leader in the public square, especially one actively defending marriage and family life, to send this definitive decision to a hostile spouse and not to send it to me engaged our one, holy Catholic, and apostolic Church in a cruel and violent attack

upon its own body. This could not be an act of justice or an act serving the will of God. For that reason, I am also bringing this situation to the attention of the Supreme Tribunal of the Apostolic Signatura, which is responsible "to exercise vigilance over the correct administration of justice, and, if need be, to censure advocates and procurators" (*Pastor Bonus* Art. 124, 1°).

2016 DIOCESEAN PUBLISHED PROCEDURES

41. Presently, the Annulment Application for the Diocese of [First Instance] is published on the Diocese' website, along with the Annulment Application Checklist. *See Ex. 12 and 13*. They make a distinction between an Application for a Declaration of Nullity, Interview-on-Paper-Questionnaire, Libellus of the Petitioner, and Petition.

42. All petitioners are instructed to mandate a procurator and advocate. "We will also need you to print out a hard copy, signed by you and your Procurator Advocate and submit it" (*Ex. 12, p. 2*). However, the power of the procurator to act as an *alter ego* is not explained. Consequently, all petitioners could be invincibly ignorant that the procurator is waiving their rights of defense– if the procurator makes statements with which the petitioner disagrees. Petitioners are instructed to begin the process by contacting their parish where, "A priest, deacon or specially trained religious or layperson will provide assistance to you during the entire annulment process. This person is called your Procurator–Advocate" (*Ex. 12, p. 2*)

43. Proofs are collected from the petitioners prior to writing of a petition/*libellus* and prior to the formulation of the doubt.

> "THE PRELIMINARY FORMS. Application for Annulment: This application is basically an interview on paper. Your testimony should present a complete picture of your background, your courtship, the marriage and the separation. Yes and no answers are of no help. Providing examples can assist the Court to better understand why this marriage failed" (*Ex 12, p. 2*).

This puts undue burden on petitioners to answer questions that are irrelevant to the ground for nullity proposed. Furthermore, *Dignitas Connubii* Article 160 shows that "Without prejudice to art. 120, the tribunal is not to proceed to collecting the proofs before the formulation of the doubt has been set in accordance with art. 135, except for a grave reason, since the formulation of the doubt is to delimit those things which are to be investigated (cf. canon 1529)." The investigation described in *D.C.* Article 120 must occur after the *libellus* has been presented to the judge: "In regard to the merits of the cause he can only institute an investigation in order to admit

or reject the libellus, if the libellus should seem to lack any basis whatsoever; he can do this only in order to see whether it could happen that some basis could appear from the process."

44. The petitioner is required to complete a questionnaire, but it is not clear whether the petitioner or the procurator writes the libellus. The second side of the "Application for a Declaration of Nullity" requires the petitioner to sign a mandate for an individual to serve as both a procurator and an advocate (*Ex. 12. p. 6*). It appears that the procurator might be the person that writes the *libellus* because the policy shows, *"*The Procurator-Advocate may write a letter outlining the evidence in the case suggesting a ground or grounds upon which to investigate the validity of the parties' consent" (*Ex. 12. p. 3*). In the [Herein] case, the Man-Petitioner is unware of whether, or not, [Deacon] wrote a precise *libellus* containing, in general way, the facts and proofs upon which [Deacon] was relying to demonstrate invalidity. These practices could result in the procurator writing statements in the *libellus* with which the petitioner would disagree, but never see. For example, the procurator could write (against the wishes of the petitioner) that the petitioner was suffering a grave psychic anomaly or mental illness at the time of consent making the petitioner incapable of understanding and choosing the essential matrimonial rights and duties.

45. The [First Instance] instructions show that the judge reads that proofs collected in the petitioner's questionnaire prior to a *Petition document* ever being signed by the petitioner. "A Judge reviews the information you have submitted" […] "On the Petition document, which you and your former spouse receive, the proposed grounds for the investigation are stated" (*Ex. 12. p. 3*). The petitioner does not send the *Petition document*, but he *receives* it. In other words, as occurred in the [Herein] case, it appears that the judge sends a pre-printed *Petition document* to the petitioner, with a precise ground of invalidity, and instructs petitioner to sign it. This is irregular because, when the judge identifies the ground for the petitioner, there is no safeguard to ensure that a petitioner understands the meaning of the ground, and the judge could be superseding the wants of the petitioner. Clearly, the respondent has to right to insist that a ground be investigated to which the petitioner objects. However, it is irregular for the judge, solely, to insists that a ground be investigated to which the petitioner objects. If the judge does not instruct petitioners that canon 1095, §2 is only applicable to those who had a grave psychic anomaly or mental illness at the time of consent, the judge is being negligent in his duty to protect the rights of defense of the petitioner.

TABLE OF EXHIBITS

1. Definitive Sentence sent to Woman-Respondent (6 pages) fax date xx October 201x
2. Cover letter to Woman-Respondent's Definitive Sentence (2 pages) fax date xx October 201x
3. Checklist for the Acceptance of Application
4. Testimony collected by judge prior to Petition, "Application for Annulment" (xx pages)
5. xx February 20xx – cover letter to Petition that judge asked Man-Petitioner to sign
6. xx February 20xx – pre-printed Petition that judge asked Man-Petitioner to sign
7. xx July 20xx – letter informing that collection of testimony nearing completion
8. x January 20xx – letter informing that Affirmative Decision has been issued
9. x March 20xx – cover letter to *Decree of Promulgation* and *any documents*
10. Decree of Promulgation enclosed with 29 March 20xx letter
11. Man-Petitioner's version of *Definitive Decision* enclosed with 29 March 20xx letter
12. July 2017 – [First Instance], Ecclesiastical Declaration of Nullity Application (14 pages)
13. July 2017 – Checklist for Application (1 page)