

[(Mary's Advocates' note) identifying information removed.]

*Aggrieved Husband*

Street Address

Address

16 November 2018

Rev. *Name Name*, Judicial Vicar

Diocese of City

Street Address

Address

### **Seek Assistance Settling Administrative Controversy**

Dear Fr. *Judicial Vicar Name*,

1. Presently the rejection by the diocese of my previous petition for a judgement in an administrative case of separation of spouses is on appeal at the Congregation of Divine Worship and Discipline of the Sacraments. The *nihil obstat* letter about which I am aggrieved was never provided to me in writing, and I was advised of the existence of said letter orally on 24 June 2018 and in letter dated 13 July 2018. Because the person aggrieved by a rejection of a request for a judgement and the author of said rejection are encouraged by canon 1733 §§ 1-3 to “take care to seek an equitable solution” and “settle the controversy in a suitable way,” I ask for your assistance and the assistance of the Promoter of Justice, Msgr. *Name Name*. I request that you study the case and persuade the author of the *nihil obstat* letter to revoke it for the reasons contained in correspondence listed here:

4 July - Petition for an Administrative Case of Separation of Spouses, 1 page

13 July - Fr. *Delegate's* notice of *nihil obstat*, 1 page

23 July - Request Proper Notification, Revocation of 13 July Judgement, 5 pages

20 August - Fr. *Delegate* Rejects Request for Notification and Revocation, 1 page

1 September - Hierarchical Recourse Against 20 August *nihil obstat*, 6 pages

2. I would consider an equitable solution to our controversy the simultaneous revocation of the administrative *nihil obstat* letter communicated by Fr. *Nn Delegate*, and the initiation of an oral contentious process for deciding a case below. I am vindicating my right to my good reputation and seek a judgment of specific grounds in a case of separation of spouses.

## Oral Contentious Action, Vindicate Good Reputation & Separation of Spouses

### Right Upon Which the Petitioner Bases the Case

3. Herein is my *libellus*, pursuant to canon 221 §1, in which I am vindicating and defending the rights which I possess.<sup>1</sup> The Tribunal of the Diocese of *City* is competent because both parties reside in this diocese. Besides vindicating rights, I seek the declaration of juridic facts and judgements in the question of sin, violation of ecclesiastic laws, culpability, and the imposition of penalties as described in canon 1400 and 1401.<sup>2</sup> I seek a sentence that determines wife-respondent's obligations and how they must be fulfilled in accord with canon 1611, 2<sup>o</sup>.<sup>3</sup>

4. Wife-respondent harmed my good reputation which is a violation of rights shown in canon 220.<sup>4</sup> Pursuant to canon 1390, she is punishable with a just penalty because he injured my good name, and he should be compelled to make suitable reparation (i.e. retraction of the calumny).<sup>5</sup>

5. Wife-respondent is obligated to maintain the common conjugal life unless a legitimate cause excuses her pursuant to canons 104 and 1153.<sup>6</sup> I, the petitioner, am also obligated to maintain the common conjugal life unless a legitimate cause excuses me.

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<sup>1</sup> Can. 221 §1. The Christian faithful can legitimately vindicate and defend the rights which they possess in the Church in the competent ecclesiastical forum according to the norm of law.

<sup>2</sup> Can. 1400 §1. The object of a trial is: 1/ the pursuit or vindication of the rights of physical or juridic persons, or the declaration of juridic facts; 2/ the imposition or declaration of a penalty for delicts. [...] Can. 1401. By proper and exclusive right the Church adjudicates: 1/ cases which regard spiritual matters or those connected to spiritual matters; 2/ the violation of ecclesiastical laws and all those matters in which there is a question of sin, in what pertains to the determination of culpability and the imposition of ecclesiastical penalties.

<sup>3</sup> Can. 1611. The sentence must: [...] 2/ determine what obligations have arisen for the parties from the trial and how they must be fulfilled.

<sup>4</sup> Can. 220. No one is permitted to harm illegitimately the good reputation which a person possesses nor to injure the right of any person to protect his or her own privacy.

<sup>5</sup> Can. 1390 §2. A person who offers an ecclesiastical superior any other calumnious denunciation of a delict or who otherwise injures the good reputation of another can be punished with a just penalty, not excluding a censure. §3. A calumniator can also be forced to make suitable reparation.

<sup>6</sup> Can. 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.

Can. 1153 §1. If either of the spouses causes grave mental or physical danger to the other spouse or to the offspring or otherwise renders common life too difficult, that spouse gives the other a legitimate cause for leaving, either by decree of the local ordinary or even on his or her own authority if there is danger in delay.

§2. In all cases, when the cause for the separation ceases, conjugal living must be restored unless ecclesiastical authority has established otherwise.

6. The Promoter of Justice must participate in the judicial proceeding.<sup>7</sup>
7. Wife-respondent violated divine and canon law, so, in accord with canon 1399, I seek her penalty due to the special gravity of the violation and the urgent need to prevent or repair scandal.<sup>8</sup>
8. Wife-respondent is failing in her duty to imbue and perfect the order of temporal affairs with the spirit of the gospel, as required by canon 225 §2.<sup>9</sup> She is neglecting her obligation to be ordered toward my good and the good of the spouses in accord with canon 1055.<sup>10</sup> The good of the spouses in this context is the *mutuum adiutorium* (mutual help) expressed in canon 1013 from the 1917 *CIC*.
9. Wife-respondent is obligated to repair the damage she illegitimately inflicted on me by acts placed with malice or negligence, pursuant to canon 128.<sup>11</sup> I seek reparation of damages simultaneously with herein *libellus* seeking penalty pursuant to canon 1729.<sup>12</sup> The Navarra Exegetical Commentary on canon 128 includes breach of contract as an action for which one can be found guilty of causing harm:

The *damage* caused is not only monetary or even moral (reputation). The canon does not specify, and so it covers all types of damages: monetary, physical, material, moral, psychoemotional, spiritual, etc. The actions that can cause damage are also as varied: breach of contract, physical injury, criminal act ... (p. 814).

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<sup>7</sup> Can. 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 can. 1433.

<sup>8</sup> Can. 1399. In addition to the cases established here or in other laws, the external violation of a divine or canonical law can be punished by a just penalty only when the special gravity of the violation demands punishment and there is an urgent need to prevent or repair scandals.

<sup>9</sup> Can. 225 §2. According to each one's own condition, they are also bound by a particular duty to imbue and perfect the order of temporal affairs with the spirit of the gospel and thus to give witness to Christ, especially in carrying out these same affairs and in exercising secular functions.

<sup>10</sup> Can. 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.

<sup>11</sup> Can. 128. Whoever illegitimately inflicts damage upon someone by a juridic act or by any other act placed with malice or negligence is obliged to repair the damage inflicted.

<sup>12</sup> Can. 1729 §1. In the penal trial itself an injured party can bring a contentious action to repair damages incurred personally from the delict, according to the norm of can. 1596.

Throughout the title on Marriage in the Code of Canon Law, marriage is clearly understood to be a contract (cc. 1055-1165). Wife-respondent is fracturing her contract to “live with each other till death” (CCC 2384). The Catechism of the Catholic Church specifies that divorce is a grave offense against the natural law and is immoral.<sup>13</sup>

### What is being Sought

10. From the Tribunal I seek the implementation of canon 1695 wherein the judge uses pastoral means to reconcile parties.<sup>14</sup> I am willing to participate in mediation pursuant to canon 1446 with someone who has a Catholic/Christian anthropology and is a recognized expert at helping people like us.<sup>15</sup> I ask that we employ the services available through *Guide guide* ..... process. Attached are some screen shots of wife-respondent’s Facebook page showing that she is friends with the *Guide guide*. If reconciliation fails, mediators can provide proofs to the tribunal describing their observations about the cause of our break-up.

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<sup>13</sup> [CCC 2383] The separation of spouses while maintaining the marriage bond can be legitimate in certain cases provided for by canon law (note 176. cf. *CIC* canons 1151-1155). If civil divorce remains the only possible way of ensuring certain legal rights, the care of the children, or the protection of inheritance, it can be tolerated and does not constitute a moral offense. [2384] Divorce is a grave offense against the natural law. It claims to break the contract, to which the spouses freely consented, to live with each other till death. Divorce does injury to the covenant of salvation, of which sacramental marriage is the sign. Contracting a new union, even if it is recognized by civil law, adds to the gravity of the rupture: the remarried spouse is then in a situation of public and permanent adultery: If a husband, separated from his wife, approaches another woman, he is an adulterer because he makes that woman commit adultery, and the woman who lives with him is an adulteress, because she has drawn another’s husband to herself. [2385] Divorce is immoral also because it introduces disorder into the family and into society. This disorder brings grave harm to the deserted spouse, to children traumatized by the separation of their parents and often torn between them, and because of its contagious effect which makes it truly a plague on society.

<sup>14</sup> Can. 1695. Before accepting the case and whenever there is hope of a favorable outcome, the judge is to use pastoral means to reconcile the spouses and persuade them to restore conjugal living.

<sup>15</sup> Can. 1446 §1. All the Christian faithful, and especially bishops, are to strive diligently to avoid litigation among the people of God as much as possible, without prejudice to justice, and to resolve litigation peacefully as soon as possible. §2. Whenever the judge perceives some hope of a favorable outcome at the start of litigation or even at any other time, the judge is not to neglect to encourage and assist the parties to collaborate in seeking an equitable solution to the controversy and to indicate to them suitable means to this end, even by using reputable persons for mediation. §3. If the litigation concerns the private good of the parties, the judge is to discern whether the controversy can be concluded advantageously by an agreement or the judgment of arbitrators according to the norm of cann. 1713-1716.

11. After the outcome of pastoral attempts and reconciliation become known, I seek an oral contentious proceeding including the following:
- a. an order within three days sending a copy of my *libellus* to wife-respondent, pursuant to canon 1659;
  - b. my testimony wherein I describe that my wife committed calumny against me, including accusing me of ..... *accusations* ..... *accusations* ..... , and exhibited towards me pre-eminent hatred and was unbearably cruel (*saevitia*).
  - c. decree of the formulation of the doubt, pursuant to canon 1661 §1, including the following: 1) Does the wife-respondent have pre-eminent hatred toward petitioner; 2) Is wife-respondent unbearably cruel (*saevitia*); 3) Has wife-respondent maliciously abandoned the marital home; 4) Is wife-respondent owed no material support from petitioner and does she owe petitioner reparation of material harm; 5) Has wife-respondent committed calumny against petitioner for which she must make reparation; 6) What ecclesiastic penalties are just for wife-respondent due to her failures; 7) Is wife's failure to uphold marriage promises a grave sin for which she shall be denied Holy Communion if she persists after being admonished?
  - d. a citation to all those who must take part in oral hearing that is to be scheduled, pursuant to canon 1661 §1, within thirty days from the decree of the formulation of the doubt;
  - e. a citation of Fr. Rev. *Name Pastor, Parish, address* ..... , *zipcode*, so he can participate in an oral examination as witness during the oral hearing;
  - f. a citation of the Promoter of Justice, so he can participate in the oral hearing;
  - g. a citation, pursuant to 1661 §2, that instructs parties they can present a brief written statement to the tribunal to verify their claims at least three days before the hearing;
  - h. collection of proofs at an oral hearing pursuant to canon 1663 in which both parties can be present at the examination of the other party, and witnesses.
12. I seek a judicial sentence in the ordinary contentious and penal process instructing wife-respondent of the following:

- a. wife-respondent is obligated to work through our marriage to build up the kingdom of God and cease her pre-eminent hatred of me;<sup>16</sup> cease her unbearable cruelty;<sup>17</sup> and cease her malicious abandonment.
- b. the juridic status of separated spouse has been judged and wife-respondent is a malicious abandoner, wrongly holding pre-eminent hatred, and is unbearably cruel, and therefore sentence of separation of spouses is in effect for an indeterminate period of time ceasing when wife-respondent ceases manifesting said failings;
- c. wife-respondent must contribute her share to the material support of the marital home and is owed no material support from petitioner because she is the cause of the break-up due to her pre-eminent hatred, unbearable cruelty, and malicious abandonment.<sup>18</sup>
- d. wife-respondent must make reparation and retract the calumny against petitioner that she told any persons, in her attempt to diminish her culpability for the break-up of parties' marriage;
- e. wife-respondent must cease her malicious abandonment and she must make reparation for the scandal she has given to those who know parties;
- f. wife-respondent is under ecclesiastic penalty until she obeys the instructions aforementioned;

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<sup>16</sup> Pre-eminent hatred against a spouse is a legitimate cause for the hated spouse to be excused from the obligation to maintain the common conjugal life. Jurisprudence from the Roman Rota shows that hatred must be proven juridically (no. 4). Anger and exacerbation of mind do not demonstrate pre-eminent hatred (no. 5). *Coram* Joseph Florczak, June 30, 1928, in *Sacrae Romanae Rotae Decisiones*, 20 (1928). Decisio XXIX, pp. 267-272 [English Translation, Mary's Advocates].

<sup>17</sup> Former Patron and Procurator at the Supreme Tribunal of the Signatura and Professor of Dean of the University of Notre Dame's law school shows this: "Unbearable Cruelty Which Renders Conjugal Life Insupportable [is a ground for temporary separation ...] The Latin term *saevitia* means excessive or unbearable cruelty, harshness, extreme severity, fierceness, and barbarity. What is called cruelty, by way of travesty, in modern divorce courts could not be viewed as *saevitia*, in the sense of canon 1131 §1. Hence, the so-called incompatibility of temperament, divergence of views, and the like would not be considered sufficient to invoke separation" (page 634). Doheny, Msgr. William J., C.S.C., J.U.D., Canonical Procedure in Matrimonial Cases, Volume II, Informal Procedure. Milwaukee: The Bruce Publishing Company, Copyright 1944. Second Edition 1948

<sup>18</sup> Jurisprudence from the Roman Rota show that even in cases of permanent separation with morally justified cause, the party causing the break-up is owed no financial/material support from the party who has done nothing grave justifying separation of spouses. *Coram* Parrillo, 4 May 1929, in *Sacrae Romanae Rotae Decisiones*, 21 (1929), pp. 189-193, par. 4. trans. Mary's Advocates

- g. wife-respondent is to be denied Holy Communion until she ceases the above grave manifest sins, and shows a firm resolve to amend her behavior.

13. If another ground for separation is proposed for investigation besides those in my *libellus* herein, I uphold my right to receive a copy of the description, in a general way, of facts supporting any other ground for separation. Said description of facts must be provided to me allowing me fifteen days to send a written response to the tribunal chancery, pursuant to canon 1659 §1, prior to new grounds being added to the formulation of the doubt. The judge shall clarify the object of the controversy prior to citing parties to appear at oral hearing.

#### Generally, Facts and Proofs to Prove the Allegations

14. Wife-respondent, *Wife-Name Name*, and I were married in the Catholic marriage Rite on ... date ... at *Church, City*. Presently, *Wife-Name* is both refusing to uphold her marriage promises and refusing to be reconciled. Her refusals are not a morally legitimate reason for her to be, in good conscious, separated from me. On the contrary, her refusal is immoral and gives scandal to everyone who knows us.

15. *Wife-Name* absented herself from the marital home on *date* 2018. She can be reached, I believe, through ... *Name Name* .... where she has been regularly attending Mass for years. She told me several times within the last month that she was going to filing for divorce, and I believe she has already consulted with a divorce lawyer.

16. *State-Name* is no-fault state and courts routinely issue divorce decrees wherein the petitioner has no morally legitimate basis for separation of spouses against a respondent who wants to keep the family together who has committed no grave offenses justifying temporary separation or justifying permanent separation. The *State-Name* state government statutes show the civil forum will issue a divorce decree when the court finds that the “marriage is irretrievably broken” (*State-Name* Stat. §xx-xxx). The *State-Name* statutes show the civil forum will enter a decree of legal separation if both parties attest that “they have made every reasonable effort to effect reconciliation.” (*State-Name* Stat. §xx-xxx.xx). Neither of these government statutes describe legitimate cause for separation of spouses for those with Catholic marriage.

17. The government courts purport to have competence to relieve petitioner of the obligation to maintain the common conjugal life, relieve a petitioner of her obligation to reconcile, and relieve petitioner of her obligation to contribute her share to the material support due as part of being oriented towards the good of the spouses. The government courts wrongly interfere with these

aforementioned aspects of marriage that are beyond the merely civil effects of marriage. Civil forum practices are contrary to divine law because the spouse who committed no offenses justifying the other's separation is routinely ordered in the civil forum to financially support the party who is abandoning the marriage and who exhibits pre-eminent hatred and unbearable cruelty. Routinely, the civil courts immorally order the party who is upholding his marriage promises to complicity support the other spouse who is committing grave wrongs, and to become an explicit, formal, cooperator with grave wrongs, and necessary, material, cooperator with objective evil.

18. From *Month* of 2017 till *Month* of 2017, *Wife-Name* refused to sleep in our marital bedroom after a disagreement over *number* dollars. In *Month* of 2017, *Wife-Name* and I participated in a reconciliation program facilitated by *Guide guide*. For a time thereafter, she seemed to be upholding her marriage promises and we were getting along splendidly. However, she didn't stay that way. She *action* ... when I let her know that I learned she lied ... *to person* ... *details* ... and committed calumny against me. She had told him that I ... *accusation* .... and other lies. Even if her claims were true, as a Catholic wife who is "bound by a special duty to work through marriage and the family to build up the people of God," she would be obligated to do everything in her power to help me get the right kind of help for these offenses.

19. I have spoken to our pastor (Fr. *Pastor-Name* at *Church, City, State*) and he can provide proofs during his examination as a witness in the oral hearing about what he's come to know regarding our marital situation.

20. I have been a good provider and protector, I took my role very seriously to pass the faith to the children. I have [(*Mary's Advocates' note*) identifying information removed.] *action* ... . I began a business built it up and ran it now for *number* years. I go to work every day doing ... *action* ... *action*. Of course, I have to deal with customers, vendors, employees, timelines, etc. This requires a spirit of cooperation, honesty and integrity. So, things like ... *accusation*... and... *accusation*... just don't align with running a business.

21. I am comfortable having intimate friendships and want an intimate marital relationship. I have always ... *examples* ... . So ... *accusations*... are just bald face lies.

22. Ten years ago ... . So I deeply resent that *Wife-name* claims I play the victim role to get attention. In fact *Guide guide* said I had the emotional strength of a Navy Seal. This is an example of cruel and hateful behavior. I believe ....

23. Of late, *Wife-name* choose to be angry towards me all the time, with no justification and no attempt to resolve any particular concerns. In fact, *Wife-name* is angry most of the time. *Wife-name* controls ... *examples*. To say that I ... *accusation* ... is a bald face lie!

24. The Catechism teaches that “After the fall, marriage helps to overcome self-absorption, egoism, pursuit of one's own pleasure, and to open oneself to the other, to mutual aid and to self-giving” (CCC 1609). *Wife-name* is failing to uphold this duty and failing to nurture our union.

25. The Introduction in the Order of Celebrating Matrimony illustrates my goals for our marriage about which *Wife-name* needs to be reminded:

(paragraphs 9-10) Through this Sacrament the Holy Spirit brings it about that, just as Christ loved the Church and gave himself up for her, Christian spouses also strive to nurture and foster their union in equal dignity, mutual giving, and the undivided love that flows from the divine font of charity. In this way, uniting divine and human realities, they persevere in good times and in bad, faithful in body and mind, remaining complete strangers to any adultery and divorce.

The true development of conjugal love and the whole meaning of family life, without diminishment of the other ends of Marriage, are directed to disposing Christian spouses to cooperate wholeheartedly with the love of the Creator and Savior, who through them increases and enriches his family from day to day. Therefore, trusting in divine Providence and developing a spirit of sacrifice, they glorify the Creator and s strive for perfection in Christ, as they carry out the role of procreation with generous, human and Christian responsibility.

26. I strongly believe *Wife-name* values her Catholic faith enough that she would seriously pray and discern if the Tribunal reminded her of the necessity of her upholding her marriage obligations. So, I ask you to use pastoral means to reconcile us. If that fails, I ask you to prevent scandal and issue the judgements I sought herein.

Sincerely Yours in Christ,

*Aggrieved Husband*

cc: *City* Diocese Promoter of Justice, Rev. Msgr. *Name Name*

1

4 July 2018

Petition for an Administrative Case of Separation of Spouses

1 page

July 4, 2018

[Redacted]

Bishop [Redacted]

I am writing you to request a decree of separation from my wife of 32 years. [Redacted] were married at [Redacted] Church in [Redacted], [Redacted] 1986.

[Redacted]

"otherwise renders common life too difficult."

[Redacted]

Pursuant to canon 1153, I am requesting an initiation of a separation decree to legitimize our future separation. The diocesan promoter of justice should be cited and must take part.

Thank you for your attention to this matter, I look forward to hearing what the next step will be.

Sincerely yours in Christ,

[Redacted]

# 2

13 July 2018

Fr. *Delegate's* notice of *nihil obstat*

1 page

DIOCESE OF  

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CHANCERY

July 13, 2018

Dear [REDACTED]

Bishop [REDACTED] has asked me to reply to your letter sent to him dated July 4, 2018, in which you requested a decree of separation from your wife. I am sorry to hear about the difficulties that you have been experiencing in your marriage. Please know that you are in our prayers.

It is not our pastoral practice to issue a decree of separation. It is our practice to only issue a *nihil obstat*, which means “nothing hinders” the separation from taking place. We have received word that Father [REDACTED] met with you and read to you the letter granting the *nihil obstat*. This means that you may separate in good conscience. The Church does not place any blame on either or both parties nor find that either party was more at fault than the other. Rather, the *nihil obstat* reflects that the local Ordinary has determined that serious reasons exist such that the parties may separate in good conscience. Nevertheless, it’s important to remember that the marriage is still presumed to be valid and should the serious reasons for the separation cease, then the parties would be morally obligated to seek to restore common life.

Please know that we will continue to offer our prayers that you and [REDACTED] may both experience healing in your lives during this difficult time. May God’s peace be with you.

[REDACTED]  
Chancellor

# 3

23 July 2018

Request Proper Notification, Revocation of 13 July Judgement

5 pages

*Aggrieved Husband*  
Street Address  
Address

July 23, 2018

Bishop Name Name  
Diocese of City  
Street Address  
Address

Re: Administrative Proceeding in Case of Separation of Spouses

Your Excellency,

I have been advised two different ways of your response to my 4 July 2018 petition for an administrative case of separation of spouses.

### **Petitioner seeking Proper Notification**

On 24 June 2018, Fr. *Pastor* met me in *place place place place place place* and read a diocesan document to me. If the document he read is your judgement of my petition, I ask that the answer be made known to me by a “legitimate document according to the norm of law.”

Normally, a written answer would be handed over to the petitioner. A petition for a decree of separation of spouses is a legitimate petition as described in canon 57. Canon 1692 §1 shows that a separation case can be managed in an administrative proceeding. Canon 55 shows norm of law for making document known to petitioners:

. . . [W]hen a very grave reason prevents the handing over of the written text of a decree, the decree is considered to have been made known if it is read to the person to whom it is destined in the presence of a notary or two witnesses. After a written record of what has occurred has been prepared, all those present must sign it.

I signed no such record when the diocesan document was read to me. Moreover, I prefer to have the diocesan document handed over to me rather than only read to me anyway – there seems to be no grave cause preventing the handing over.

## Seeking Revocation of 13 July 2018 Judgement

If the letter dated 13 July 2018 from Fr. *Name Delegate*, that I received on 18 July 2018, is your judgement of my petition, then pursuant to canons 1733-1734, I seek revocation of your decree for the reasons contained herein. Fr. *Delegate*, appears to be your delegate to whom mandated competence to judge, or reject, a petition of a case of separation of spouses.

### 1. Pastoral Practice is to not issue decree of separation:

Fr. *Delegate* stated “It is not our pastoral practice to issue a decree of separation. It is our practice to only issue a *nihil obstat*, which means nothing hinders the separation from taking place.” A petition for a decree of separation of spouses is a request for a singular decree and thereby is directed by canons 50 to 58. It is also a petition for an administrative proceeding. Canon 1692 is a procedural norm specifying that cases of separation of spouses can be managed in an administrative procedure.<sup>1</sup> Thus, the procedure would begin with the implementation canon 1695 for reconciliation of spouses and end in a judgment in the form of a decree judging the petitioner’s petition. Canon 87 shows that a diocesan bishop is not able to dispense from procedural norms.<sup>2</sup> So, I ask you to revoke the 13 July 2018 judgement by *Delegate* stating that it is not pastoral practice to issue a decree of separation.

### 2. Does not place blame:

*Delegate* stated “The Church does not place any blame on either or both parties nor find that either party was more at fault than the other.” By petitioning for a decree of separation of spouses, I am necessarily invoking the canons on grounds for separation of spouses. The grounds in canon 1151-1155 unquestionably place blame for “the other’s fault” [who ...] “committed adultery” (c. 1152); or “occasions grave danger of soul or body to the other or to the children, or otherwise makes the common life unduly difficult” (c. 1153). Canon 1155 illustrates blame and

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<sup>1</sup> Can. 1692 §1. Unless other provision is legitimately made in particular places, a decree of the diocesan bishop or a judicial sentence can decide the personal separation of baptized spouses according to the norm of the following canons. §2. Where an ecclesiastical decision has no civil effects or if a civil sentence is not contrary to divine law, the bishop of the diocese of the residence of the spouses, after having weighed the special circumstances, can grant permission to approach the civil forum. §3. If a case concerns only the merely civil effects of marriage, the judge, after having observed the prescript of §2, is to try to defer the case to the civil forum from the start.

<sup>2</sup> Can. 87 §1. A diocesan bishop, whenever he judges that it contributes to their spiritual good, is able to dispense the faithful from universal and particular disciplinary laws issued for his territory or his subjects by the supreme authority of the Church. He is not able to dispense, however, from procedural or penal laws nor from those whose dispensation is specially reserved to the Apostolic See or some other authority.

innocence: “The innocent spouse may laudably readmit the other spouse to the conjugal life, in which case he or she removes the right to separation.” A petition for a decree of separation presupposes some controversy, with a petitioner bringing a claim against a respondent and asking for a judgement from the ecclesiastic authority about whether, or not, the actions of the respondent are grave enough to justify the petitioner’s separation from the respondent. So, I ask you to revoke the 13 July 2018 judgement by *Delegate* stating that the Church does not place any blame on either or both parties.

3. Parties [plural] may separate in good conscience

*Delegate* stated the “*nihil obstat* reflects that the local Ordinary has determined that serious reasons exist such that the parties may separate in good conscience.” If this statement is being read to my wife and/or mailed to her, I am aggrieved because Your Excellency is deciding that my wife has a just cause authorizing her to separate from me. From what I understand from *Delegate*, this letter was read to my wife, but this was not clearly stated that I can recall. Delivering the 13 July 2018 document to *Wife* injures my right of defense because I was never advised of any accusation against me that I committed adultery, occasioned grave danger of soul or body to *Wife*, or otherwise made the common life unduly difficult. If *Wife* does make accusations against me, my right to be heard is protected in canon 50.<sup>3</sup>

If, after seeking out the necessary information and proofs, insofar as possible, your Excellency (or your Delegate) judges that my complaint against *Wife* justifies my separating from her, it would be irregular to instruct her simultaneously that she can initiate a separation from me in good conscience. *Wife* would not be in good conscience unless she had a firm resolve to amend her grievous behavior that you judged to be severe enough to justify my separation from her. My obligation to maintain the common conjugal life can only be waived for lawful reason. *Wife* has no lawful reasons to separate from me, though she does have obligations to maintain her marriage promises. Canon 1151 show “Spouses have the obligation and the right to maintain their common conjugal life.” Canon 104 shows “Spouses are to have a common domicile her quasi-domicile. By reason of lawful separation or for some other just reason, each may have his or her own domicile or quasi-domicile.”

The Catechism delimits that “The separation of spouses while maintaining the marriage bond can be legitimate in certain cases provided for by canon law” (CCC 2383). I am asking Your Excellency to implement the applicable canon law so I know whether my separating would

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<sup>3</sup> Can. 50 Before issuing a singular decree, an authority is to seek out the necessary information and proofs and, insofar as possible, to hear those whose rights can be injured.

be legitimate. I am not planning to separate on my own authority both because there is no danger in delay and *Wife* is not committing adultery.

The Catechism teaches that “After the fall, marriage helps to overcome self-absorption, egoism, pursuit of one's own pleasure, and to open oneself to the other, to mutual aid and to self-giving” (CCC 1609). Canon 226 §1 shows “according to their own vocation, those who live in the marital state are bound by a special duty to work through marriage and the family to build up the people of God.” I am complaining that *Wife* is failing to uphold this duty, and failing to nurture our union. I am asking you to initiate an administrative proceeding and seek a judgement about whether *Wife*'s failings are grave enough to justify my separation from her. The Introduction in the Order of Celebrating Matrimony illustrates my goals for our marriage that *Wife* apparently doesn't care about any more.

9. Through this Sacrament the Holy Spirit brings it about that, just as Christ loved the Church and gave himself up for her, Christian spouses also strive to nurture and foster their union in equal dignity, mutual giving, and the undivided love that flows from the divine font of charity. In this way, uniting divine and human realities, they persevere in good times and in bad, faithful in body and mind, remaining complete strangers to any adultery and divorce.

10. The true development of conjugal love and the whole meaning of family life, without diminishment of the other ends of Marriage, are directed to disposing Christian spouses to cooperate wholeheartedly with the love of the Creator and Savior, who through them increases and enriches his family from day to day. Therefore, trusting in divine Providence and developing a spirit of sacrifice, they glorify the Creator and s strive for perfection in Christ, as they carry out the role of procreation with generous, human and Christian responsibility.

I strongly believe *Wife* values her Catholic faith enough that she would seriously pray and discern if Your Excellency reminded her of the necessity of her uphold her marriage obligations. So, I ask you to revoke the 13 July 2018 judgement by *Delegate*, stating that parties [plural] may separate in good conscience.

4. Promoter of Justice absent:

*Delegate*'s 13 July 2018 document gave no indication of whether the Promoter of Justice participated. Canon 1696 shows that the Promoter of Justice must participate in cases separation because these cases concern the public good. So, I ask you to revoke *Delegates*'s document and replace it with another decree after the promoter of justice takes part.

## Judgement Sought

From Your Excellency, I seek the implementation of the canon 1695 for reconciliation of spouses, including a precept described in canon 49 enjoining my wife to do something (especially in order to urge the observance of the law).

I seek the employment of a mediator and canon 1446 shows that all the Christian faithful, and especially bishops, are to strive to avoid litigation.<sup>4</sup> Upon request, I can suggest several mediators (marriage coaches, psychologists, programs) with Catholic anthropology that are known for successfully helping couples reconcile

I seek the implementation of the administrative process requested in my 4 July 2018 petition to the bishop for a decree of separation of spouses, including the instruction, gathering proofs, hearing the party accused, evaluation, externalization of judgment (showing explanation of proven facts, applicable juridical principles, and principles' relationship to dispositive part of the decision), and communication of the decree to the parties according to the norm of law.

If reconciliation attempts fail, I seek that *Wife* be cited as a respondent in a separation case in which I am complaining that she is making the common conjugal life unduly difficult (c. 1153).

Thereafter, if reconciliation continues to fail, I seek a decree of separation of spouses based on the ground of *Wife* making the common conjugal life unduly difficult, to be in effect for an indefinite period of time ending when the *Wife* chooses to cease making the common life unduly difficult.

Respectfully Yours in Christ,

*Aggrieved Husband*

Enclosures: 4 July 2018 – Petition of *Aggrieved Husband*  
13 July 2018 – Answer from Fr. *Mandated Delegate*

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<sup>4</sup> Can. 1446 §1. All the Christian faithful, and especially bishops, are to strive diligently to avoid litigation among the people of God as much as possible, without prejudice to justice, and to resolve litigation peacefully as soon as possible. §2. Whenever the judge perceives some hope of a favorable outcome at the start of litigation or even at any other time, the judge is not to neglect to encourage and assist the parties to collaborate in seeking an equitable solution to the controversy and to indicate to them suitable means to this end, even by using reputable persons for mediation. §3. If the litigation concerns the private good of the parties, the judge is to discern whether the controversy can be concluded advantageously by an agreement or the judgment of arbitrators according to the norm of cann. 1713-1716.

# 4

20 August 2018

Fr. *Delegate* Rejects Request for Notification and Revocation

1 page

[REDACTED]

**DIOCESE**

**CHANCERY**

[REDACTED]

August 20, 2018

Dear Mr. [REDACTED]

Bishop [REDACTED] has asked me to reply to your letter written to him dated July 23, 2018, in which you petition for an administrative case of separation of spouses. Again, I am sorry to hear of the hardships that you are experiencing in your marriage to Wife [REDACTED]

It is our understanding that both you and Wife have attended the Retrouvaille program for married couples struggling in their marriages, attended a Marriage Encounter weekend, have attended sessions with Dr. [REDACTED] and been in contact with your pastor, Fr. Pastor [REDACTED]. It appears to us that both parties have made a good faith effort to reconcile the marriage.

In the United States, ecclesiastical decisions concerning the separation of spouses do not have civil effects. Therefore, in accord with canon 1692 §2, the local bishop can grant permission for couples to approach the civil courts. After having heard from you on multiple occasions and after having heard from your pastor, Fr. Pastor, who has been in communication with both you and Wife and after hearing of the many efforts listed in the preceding paragraph of your efforts to reconcile the marriage, the Bishop granted a *nihil obstat* which gives you permission to approach the civil courts to settle the civil effects of a separation or divorce.

In conclusion, Bishop [REDACTED] is not going to open an administrative process nor is he going to assign blame on either party for the difficulties in your marriage. If you would like to appeal this decision to the Roman Rota in Rome, you may make your request through the Apostolic Nuncio, the Pope's representative in the United States:

The Most Reverend Christophe Pierre  
Apostolic Nuncio to the United States of America  
3339 Massachusetts Ave., N.W.  
Washington, DC 20008

I encourage you to stay in contact with your parish pastor to provide for your spiritual and sacramental needs. If you are in need of counseling, I encourage you to be in contact with Catholic Social Services concerning the counseling options that are available. Please know that we are praying for you. May God's peace be with you.

[REDACTED]

[REDACTED]

# 5

1 September 2018

Hierarchical Recourse Against 20 August *nihil obstat*

6 page

*Aggrieved Husband*  
Street Address  
Address  
U.S.A.

1 September 2018

His Eminence, Robert Cardinal Sarah  
Prefect of the Congregation for Divine Worship and the Discipline of the Sacraments  
Palazzo delle Congregazioni  
Piazza Pio XII, 10  
00193 Roma  
Vatican City State

**Hierarchical Recourse Against 20 August 2018 Administrative Decree  
Diocese of *City*, Case of Separation of Spouses**

Your Eminence,

1. Pursuant to Canon 1737, § 2, I am making hierarchical recourse within fifteen useful days against the 20 August 2018 decree of the delegate of His Excellency Name Name Bishop of the Diocese of *CityCity* rejecting my plea for revocation of his prior decree about which I was aggrieved.
2. On 24 June 2018, my pastor, *Pastor*, read me some document from the diocese related to previous correspondence about separation. On 4 July 2018, I petitioned Bishop Name Name requesting an administrative separation decree on the ground of my wife rendering the common life too difficult.” On 18 July 2018 I received a letter dated 13 July 2018 from the Bishops mandated Delegate, Fr. *Mandated Delegate* containing a notice of *nihil obstat*. Pursuant to canon 1734 §1, on 23 July 2018 I sought from His Excellency the proper notification of the document read to me in June, or revocation of the decree of 13 July 2018. On 23 August 2018, I received the 20 August 2018 rejection of my request.
3. I seek your assistance because *Pastor Bonus* shows that the Congregation for Divine Worship and the Discipline of the Sacraments has competence concerning the regulation, promotion, and safeguarding of the sacraments.

4. I am sending a copy of this recourse herein to His Excellency *Name NameName* and desire that we “take care to seek an equitable solution” and “settle the controversy in a suitable way” as described by canon 1733 §1. While this recourse is pending, I still request the judgements and implementation of canon law relative to my petition.

5. I am aggrieved by the decision answering my petition for a decree of separation from my wife that I based on my assertion the she “otherwise renders common life too difficult.”

6. The Delegate’s decrees of 13 July 2018 and 20 August 2018 are inappropriate and not based in facts or law. I am aggrieved that the Delegate simultaneously gave my wife permission to separate from me when he gave me permission to separate from her in his 13 July 2018 decree, by his statement that the “parties may separate in good conscious” and “should the serious reason for the separation cease, then the parties would be morally obligated to seek to restore the common life.” I am aggrieved that the Delegate gave no reason (moreover, no serious reason) for either of us to be separated from the other. Regarding an administrative proceeding, Canon 51 specifies “A decree is to be issued in writing, expressing the motives at least summarily if it concerns a decision.” Canon Law professor at Catholic University of America, William Daniel, in his book *The Art of Good Governance. A Guide to the Administrative Procedure for Just Decision-Making in the Catholic Church*, states that an administrative decree must consist of an explanation of the proven facts, applicable juridical principles, and the principle’s relationship to the dispositive part of the decision (pg. 171).

7. In my 23 July 2018 complaint, in section 2, I discussed my lawful basis for being aggrieved that the Delegate gave no reasons for separation (page 2-4, Does not place blame, Parties [plural] may separate in good conscience). In the Delegate’s decree of 20 August 2018, he emphasized how the diocese is not going to make a judgment, “In conclusion, Bishop *Name* is not going to open an administrative process nor is he going to assign blame on either party for the difficulties in your marriage.” This is contrary to law because every spouse has the duty to preserve the common conjugal life unless a legitimate cause excuse him or her. This duty is not a private duty and involves the public good, but my complaint about the need for the Promoter of Justice went unheeded (23 July 2018, pg. 4). In his decree of 20 August 2018, the Delegate stated the uncontested fact that my wife and I attended *Retrouvaille* and sessions with Dr. *Helper Name Helper Name Helper Name Helper Name*. However, the Delegate gave no reasons, based in law or facts, to demonstrate that attending the sessions is proof that either party committed offenses grave enough to justify separation of spouses. Moreover, I assert that– even though my wife

attended these sessions—she is not making any effort to reconcile. On the contrary, she is willfully working on making the common life unduly difficult for me. Consequently, from the ecclesiastic forum, I am seeking a judgement of whether her fault is grave enough to justify my separation from her.

- From the Dicastery, I seek a determination that in a case of separation of spouses, no administrative decree, nor judicial sentence, can grant either party permission to separate without decree or sentence finding—based in juridical principles and facts—that the other party committed a fault described in canon law justifying separation (*i.e.* can. 1152 “adulterous partner,” can. 1153 §1 “spouses causes grave mental or physical danger to the other spouse or to the offspring or otherwise renders common life too difficult”).

8. Furthermore, in the decree of 20 August 2018, the mandated Delegate wrote that the bishop can grant permission to approach the civil forum:

“[E]cclesiastical decisions concerning the separation of spouses do not have civil effects. Therefore, in accord with canon 1692 §2, the local bishop can grant permission for couples to approach the civil courts.” [...] “Bishop granted a *nihil obstat* which gives you permission to approach the civil courts to settle the civil effects of a separation or divorce.”

I, however, did not petition for permission to approach the civil forum. I petitioned for a decision judging my case in which I alleged that my wife made the common life too difficult.

9. When a petitioner brings a case of separation of spouses to the Church, the party has the option of petitioning in the judicial venue to the tribunal in which the case will be directed in accord with the norms for the oral or ordinary contentious process. Moreover, the party also has the option of petitioning in the administrative venue in which the case will be directed in accord with the norms for administrative proceedings (c. 48-58, 1732-1739). Though canon 1692 §2 shows the bishop has the option—in limited circumstance—to grant permission to approach the civil forum, it is mistaken to presume that said permission forfeits the right of the petitioner to have his case judged in the administrative ecclesiastic venue if the petitioner does not choose to exercise the option of approaching the civil forum.

- From the Dicastery, I seek a determination that any permission to approach the civil forum does not forfeit the petitioner’s right to an ecclesiastic judgement of whether, or not, his wife made the common life unduly difficult.

10. I am aggrieved that the 20 August 2018 decree gave the couple (plural, both parties) permission to approach the civil courts to settle what the Delegate calls “the civil effects of separation or divorce.” Canon 1692 §3 shows that a judicial venue judge, after receiving a petition for a judicial sentence of separation of spouses, is to try to defer a case to the civil from the start, after the bishop implements section §2, “if a case concerns only the merely civil effects of marriage.” I did not petition a judicial venue judge, but even if I had, a judge’s attempt to defer a case of separation of spouses to the civil forum does not forfeit the petitioner’s right to a judgement from the judicial venue if the petitioner does not choose to exercise the option of approaching the civil forum.

- From the Dicastery, I seek a determination that any attempt by a judicial venue judge to defer the case to the civil forum does not forfeit the petitioner’s right to an ecclesiastic judgement of whether, or not, his wife made the common life unduly difficult.

11. Moreover, the 20 August 2018 decree discusses “the civil effects of separation or divorce,” and this terminology is irregular, and seems to be contrary to, or a violation of the law. One of the criteria the judicial venue judge must decide pursuant to canon 1692 §3 is whether the “case concerns only the merely civil effects of marriage.” My obligation to “to work through marriage and the family to build up the people of God” (c. 226 §1, 23 July 2018, page 4) is not a merely civil effect of marriage, so this decision about this obligation cannot be relegated to the civil forum. The Church should disapprove the civil forum’s illicit concern with relieving my wife’s obligation to work through marriage and her obligation to maintain the common conjugal life unless a licit reason excuses her. The Church should disapprove the civil forum’s illicit concern with relieving my wife of her obligation to contribute toward the “good of the spouses.”

12. In our territory, because of no-fault divorce, the civil forum purports to relieve every spouse in every case of separation or divorce of their obligation to maintain the common conjugal life and to work through marriage to build up the kingdom of God. The Church should disapprove the civil forum’s concern with arranging permanent separations in every case, and the civil forum’s disregard of the canonical obligation that “when the cause for the separation ceases, conjugal living must be restored unless ecclesiastical authority has established otherwise.” The civil forum’s no-fault divorce courts issue decrees for permanent separation for every petitioner of divorce, for any and no reason. The judgement of whether, or not, any morally legitimate basis for separation of spouses exists is not a “merely civil effect of marriage.” In the Vatican’s *Sacrament Series* on Marriage published in 2015, it cautioned about petty reasons for separation

which are used every in the civil forum: “The reasons for reaching such an extreme situation [needing divorce] must not be petty, such as stubbornness based on pride or lack of generosity in seeking solutions” (Libreria Editrice Vaticana. 2015). The *StateState* state government statutes show the civil forum will issue a divorce decree when the court finds that the “marriage is irretrievably broken” (XX. Rev. Stat. §xx-xxx). The *StateState* statutes show the civil forum will enter a decree of legal separation if both parties attest that “they have made every reasonable effort to effect reconciliation.” (XX. Rev. Stat. §xx-xxx.xx). Neither of these government statutes describe legitimate cause for separation of spouses for those with Catholic marriage.

- From the Dicastery, I seek the determination that an “only a merely civil effect of marriage” cannot include a judgement by the civil forum of whether a morally licit ground for separation exists.
- From the Dicastery, I seek the determination that an “only a merely civil effect of marriage” cannot include a judgement by the civil forum relieving a spouse of the obligation to restore common conjugal life when a morally licit basis for separation of spouses never existed.
- From the Dicastery, I seek the determination that an “only a merely civil effect of marriage” cannot include a judgement by the civil forum relieving one party of her obligation to be ordered toward the good of the spouses, including material help (*See* 1917 *CIC* c. 1013, and 1983 *CIC* c. 1055).

13. Besides the aforementioned determinations, from the Dicastery I seek the revocation of the Delegates decrees of 13 July 2018 and 20 August 2018.

14. I seek a new decree containing that which I requested on 4 July 2018 and 23 July 2018

- I seek the implementation of the canon 1695 for reconciliation of spouses, including a precept described in canon 49 enjoining my wife to do something (especially in order to urge the observance of the law).
- I seek the employment of a mediator and canon 1446 shows that all the Christian faithful, and especially bishops, are to strive to avoid litigation. Upon request, I can suggest several mediators (marriage coaches, psychologists, programs) with Catholic anthropology that are known for successfully helping couples reconcile

- I seek the implementation of the administrative process requested in my 4 July 2018 petition to the bishop for a decree of separation of spouses, including the instruction, gathering proofs, hearing the party accused, evaluation, externalization of judgment (showing explanation of proven facts, applicable juridical principles, and principles' relationship to dispositive part of the decision), and communication of the decree to the parties according to the norm of law.
- If reconciliation attempts fail, I seek that *Wife* be cited as a respondent in a separation case in which I am complaining that she is making the common conjugal life unduly difficult (c. 1153).
- Thereafter, if reconciliation continues to fail, I seek a decree of separation of spouses based on the ground of *Wife* making the common conjugal life unduly difficult, to be in effect for an indefinite period of time ending when the *Wife* chooses to cease making the common life unduly difficult.

Respectfully yours in Christ,

Name Petitioner

Enclosures:

4 July 2018	Petition for an Administrative Case of Separation of Spouses	1 page
13 July 2018	Fr. <i>Delegate</i> 's notice of <i>nihil obstat</i>	1 page
23 July 2018	Request Proper Notification, Revocation of 13 July Judgement	5 pages
20 August 2018	Fr. <i>Delegate</i> Rejects Request for Notification and Revocation	1 page

cc: Bishop Name Name