

Marriage and Declarations of Nullity in the Catholic Church

Tribunal of the Diocese of Lincoln
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www.lincolndiocese.org/tribunal

Dear Friends,

This booklet is written primarily for someone who is interested in information about a declaration of nullity. The first part of this booklet reviews the teaching of the Church concerning marriage. This is followed by answers to some frequently asked questions about the declaration of nullity process. There is also a glossary of terms at the end of this booklet.

Marriage is a vocation from God, the ordinary call of service for a man and a woman. It is intended to be a source of holiness, joy and hope, but mysteriously does include sacrifice and struggle as well. All people, including separated or divorced persons, are encouraged to pray daily, seeking strength and courage from the Lord who loves them. In addition to their personal prayer one who experiences divorce or separation should seek ways to serve others and be served by others; they may find support, counsel and assistance from family, friends and the Christian community. The local Church offers support through preaching the Gospel, celebrating the sacraments, communal prayer, interaction with fellow parishioners, opportunities of service in the activities and life of the parish, programs with the Diocesan Family Life Office, along with counseling and outreach through Catholic Social Services.

For further information or to answer questions you may have concerning the declaration of nullity process please visit the diocesan website, under the Diocesan Office of the Tribunal, or contact a priest. With prayers that the Lord's blessings and peace be with you,

Sincerely,

Tribunal of Lincoln

1. What is marriage?

The Catholic Church's teaching on marriage derives from what God has made known to us through Jesus, His divine Son. These teachings of Jesus are found in the gospels.

And Pharisees came up and in order to test him asked, "Is it lawful for a man to divorce his wife?" He answered them, "What did Moses command you?" They said, "Moses allowed a man to write a certificate of divorce and put her away." But Jesus said to them, "For your hardness of heart (Moses) wrote you this commandment. But from the beginning of creation, 'God made them male and female.' 'For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one.' So they are no longer two but one. What therefore God has joined together, let no man put asunder." And in the house the disciples asked him again about this matter. And he said to them, "Whoever divorces his wife and marries another, commits adultery against her; and if she divorces her husband and marries another, she commits adultery" (Gospel of Mark 10: 2-12, RSV).

On the basis of these and other Scriptural passages (see also Mt. 5:32; Mt. 19: 3-11; Lk. 16:18; 1 Cor. 7:10-11; Malachi 2) the Church teaches that marriage was intended by God, from "the beginning" of the human race to be a permanent bond. This teaching on marriage applies to all human beings, not only Christians or Catholics.

The bond of a marriage between a baptized man and a baptized woman lasts until the death of one of the spouses. Even if there was in civil law a separation, divorce or a subsequent civil marriage, it does not impact the understanding that God remains faithful to the marriage covenant of the baptized man and woman which came into existence at the original wedding and remains until one of the spouses dies.

The Second Vatican Council also taught:

"The well-being of the individual person and of both human and Christian society is closely bound up with the healthy state of conjugal and family life. ... The intimate partnership of life and love which constitutes the married state has been established by the Creator and endowed by Him with its own proper laws; it is rooted in the covenant of its partners, that is, in their irrevocable personal consent" (from "The Church in the Modern World," 47 & 48).

The teachings of the Catholic Church are also expressed in her laws. For instance, it is the consent of the parties that makes the marriage. An English translation of one of the laws concerning marriage reads as follows:

"Canon 1057 §1. Matrimony is brought about through the consent of the parties, legitimately manifested between persons who are capable according to law of giving consent; no human power can replace this consent. §2. Matrimonial consent is an act of the will by which a man and a woman, through an irrevocable covenant, mutually give and accept each other in order to establish marriage."

All marriages are begun by an act of irrevocable personal consent from the man and the woman. Thus, the marriages of those who are not Catholics or those who are not baptized are also considered true marriages if they begin with true matrimonial consent. In addition, those who have ever been a Catholic must follow the laws of the Catholic Church to legitimately manifest their consent for the sacrament of marriage. Others need only exchange consent in a way that is naturally valid. In general, any marriage ceremony of a man and woman recognized by the state, regardless of whether it was held in a Church or elsewhere, gives rise to the presumption that the man and woman are validly married. This means if any such marriage is brought before a Catholic marriage tribunal by one of the parties, the tribunal will do an investigation to see if a declaration of nullity is possible.

An analogy may be helpful to understand what is meant by a valid marriage. The state also has requirements for

a valid marriage. For example, the man and woman must have obtained a valid marriage license, the marriage must be witnessed by one who has the authority to witness marriages (a priest, minister, rabbi, judge, etc.) and the man and woman must be legally free to marry. If any essential element were missing at the time of the marriage, the state does not recognize it as a marriage, even if this was only discovered years later. While the requirements of the Church are different than those of the state, there are requirements for a valid marriage.

2. What does it mean to say marriage is a Sacrament?

Catholics believe that Christ our Lord raised the institution of marriage to the dignity of a sacrament among the baptized. Because it is a sacrament for the baptized, this marriage bond acquires an even deeper meaning. The Catholic Church teaches:

The marriage bond has been established by God himself in such a way that a marriage concluded and consummated between baptized persons can never be dissolved. This bond, which results from the free human act of the spouses and their consummation of the marriage, is a reality, henceforth irrevocable, and gives rise to a covenant guaranteed by God's fidelity. The Church does not have the power to contravene this disposition of divine wisdom. (The Catechism of the Catholic Church, n.1640)

Christian marriage becomes an efficacious sign, the sacrament of the covenant of Christ and the Church. Since it signifies and communicates grace, marriage between baptized persons is a true sacrament of the New Covenant (CCC, n.1617).

3. What is the role of the Tribunal?

When petitioned to do so, the role of the Tribunal is to determine if the marriage was valid according to the teachings and laws of the Catholic Church.

A process is initiated when the Petitioner asks the Tribunal to declare his marriage null. The Church requires a Tribunal process because of the sanctity of marriage and the need for an objective appraisal of the validity of the marriage that is being challenged.

According to the laws of the Church, "Marriage enjoys the favor of the law; consequently, when a doubt exists the validity of a marriage is to be upheld until the contrary is proven" (Canon 1060). Therefore, if a man and woman were free to marry and entered into a lawful marriage, the presumption is that a bond is valid until proven otherwise.

The petition for a declaration of nullity asks the Tribunal to investigate the marriage and determine if nullity can be proven. The essential question asked is: was true matrimonial consent given on the wedding day? Were the man and woman joined together by their consent right from the beginning of the marriage according to God's plan? If a declaration of nullity is given it does not deny that a relationship existed between the man and woman, or that some good came from it, such as children, who are a gift from God, nor does it assign moral fault.

The role of the Tribunal is to give an authoritative and impartial answer to the question whether or not the marriage was valid. The answer of the Tribunal is a judicial decision based on the laws of the Church and the facts, documents and testimony received. If an affirmative decision is given by the Tribunal, it states that the nullity of the marriage has been proven. In this case, both parties of the marriage have the right to enter a new marriage. If a negative decision is given, it states that the presumption of the validity of the marriage is still held.

A declaration of nullity is often called an "annulment." Technically, this term is not accurate because nothing is made null. The term "declaration of nullity" is a more accurate description because it does not make a valid

marriage null but rather, after a thorough investigation, has discovered that the facts have shown the presumed valid marriage was actually invalid from the beginning.

4. If the Tribunal declares a marriage invalid, does this mean that children born of the marriage are illegitimate?

No. The decision of the church Tribunal has no effect on the status of the children. The laws of the Church say, "Children conceived or born of a valid or putative marriage are legitimate." (Canon 1137). A putative marriage is a marriage that was thought to be valid at the time. The Church upholds the legitimate status of children born of a marriage that is later judged invalid.

By comparison, a civil declaration of nullity or a civil divorce, does not mean that the children are illegitimate. In fact, every person brought into the world is loved by God, and He wills that they share in His salvation.

5. Does the declaration of nullity affect the terms of the divorce decree?

No. The declaration of nullity is a purely religious matter and has no civil law consequences in the United States. The terms of child support and visitation as well as other matters of civil law are not affected. Testimony that is given is for the Tribunal process only.

6. When can I begin the process?

It is the policy of the Tribunal of the Diocese of Lincoln that a nullity process can begin after one year has passed since a final divorce decree was signed by the judge of the civil court.

This policy makes clear that the Church Tribunal proceedings are totally different than a civil law divorce proceeding and tries to help the couple to avoid rash decisions without time for prayer and discernment of God's will.

7. Marriage and divorce are private, personal or family matters. Why does the Church want to bring up all that past hurt again?

Although the decision of who one marries is a private one, the decision to enter into the public relationship of marriage is not merely a private matter; it impacts spouses, children and others. That is why civil society also has laws about marriage. According to the teachings of Jesus, if one is bound to a previous marriage, then that person is not free to marry again as long as their spouse is alive, even if they have obtained a civil divorce. It is not the intention of the Church to hurt or offend anyone but the impact of Christ's teaching on marriage means a civil divorce, which does have civil law effects, does not end the marriage as a sacrament. The Catholic Church presumes such a marriage to be valid unless it can be proven otherwise in a tribunal process.

8. So this is different than a civil divorce?

Yes. A civil divorce decree is given according to the law of the state. The laws of the state allow the legal relationship of marriage to end by a divorce decree. By contrast, a declaration of nullity in the Catholic Church states that valid matrimonial consent was not given because some invalidating condition was present from the *beginning* of the attempted marriage, and therefore, once that is proven the marriage is not binding.

9. Why can't I just be forgiven and go on with my life?

Whether one is bound to a previous marriage, is not a matter of sin or forgiveness. At issue is whether there was a bond of marriage established at the wedding. Though sins may damage a marriage relationship, the bond of

marriage is not broken by sin or a civil divorce.

10. I am not a Catholic; my former spouse was not Catholic. Why is the Catholic Church looking into the marriage?

The Church enters into the investigation of a marriage when asked by the Petitioner. It is not initiated by the Church, but by one who wishes to know if they are free and have the right to marry, or if they are bound by a previous marriage. The Tribunal accepts a petition for declaration of nullity if the petitioner is a Catholic or thinks they want to marry in the Catholic Church, even if it is primarily for the benefit of an intended spouse.

11. Is it true that only wealthy people get declarations of nullity?

No. The decision of the Tribunal is based on the merits of the case. See #20 about the fees for a case.

12. Who can ask for a declaration of nullity?

Either the man or the woman, whether Catholic or non-Catholic, may petition for a declaration of nullity.

13. Can I go to the Tribunal of any Diocese?

In the Catholic Church, there are specific guidelines for determining which Tribunal can accept the petition. The Tribunal of the Diocese of Lincoln may accept a petition for declaration of nullity if:

- a. The wedding ceremony took place in the Diocese of Lincoln
- b. The Petitioner or the Respondent lives in the Diocese of Lincoln,
- c. If the Diocese of Lincoln is the place where most of the proofs (testimony) will be given.

14. How long does the process take?

There is no definite or guaranteed time. The time the formal process takes will depend on various factors, including the participation of witnesses and the parties. On average, the process takes twelve to eighteen months from the time the petition is accepted by the Tribunal until a final decision is given. The time spent in preparation before the case is accepted by the Tribunal is not counted in this estimate.

There is the possibility of a brief process if both the petitioner and respondent are willing to participate and are in agreement that they think that the marriage was null from the beginning. In addition, if substantial evidence can be gathered within 30 days then the brief process can be used. If these elements cannot be met, then the formal process is used.

15. Why does the process take so long?

The Church has the duty to be a servant and follow the truth about Jesus's teaching on the sacred dignity of marriage. When the bond of marriage is challenged through a petition for a declaration of nullity, the Church must examine the marriage carefully to make sure the decision is just and based on the facts and the law. The process is directed to discover the truth of the matter as quickly as possible while protecting the rights of the parties involved. The process may be delayed if the Petitioner or the witnesses do not respond promptly. If the Respondent can be contacted and given the opportunity to participate, their lack of cooperation does not delay the progress of the case. The testimony gathered must reach the level of moral certitude showing that there was something at the time of the wedding that kept marital consent from being exchanged.

16. Are there different kinds of marriage cases?

Yes, there are different kinds of cases. Some can take longer than others to receive a decision.

There are “Documentary Cases” – when at least one party in the marriage was Catholic and the marriage was not celebrated according to the laws of the Catholic Church. Or, some impediment to marriage (such as a previous marriage) stood in the way of a valid marriage. The proof is based on documents and testimony that show the marriage was invalid (Catholic baptismal certificates, marriage licenses, etc). These usually do not take as long as the formal cases.

There are “Formal Cases” – when the marriage was celebrated according to the law (whether the laws of the Catholic Church, if at least one party was Catholic, or the laws of civil society, if neither party were ever Catholic). These are most common. Most of the answers in this booklet refer to these kinds of cases. The presumption is that the marriage is valid unless it can be proven otherwise. Both parties are asked to give testimony, and that testimony must be supported by the testimony of witnesses. If all of this leads the Tribunal to the conclusion that the marriage was not valid, a declaration of nullity is given.

There are “privilege cases” – involving two unbaptized persons, or one baptized and one unbaptized person. These are very different than the above cases, because they do not involve a declaration of nullity. These cases are based on a benefit to the faith of a Catholic party or someone who wishes to become a Catholic, and concern the natural bond of marriage, not a sacramental marriage.

There is also a distinct process if the marriage was never consummated. Since these last two kinds of cases are more complex, ask your priest about them if you think they apply to you.

17. What are some possible grounds for “formal cases”?

The validity of a marital consent could be questioned by one who: chooses to exclude one or all of these things at the time of the wedding, sharing in intimate acts that could be creative (openness to children), binding oneself to a marriage which lasts until the death of one of the parties (permanence), intending to exclude sexual relations with any other person than their spouse (fidelity), or the entire idea of marriage itself; gave conditional consent to marriage; used fraud or deceit to elicit spousal consent. In addition there are possible signs of incapacity for giving true marital consent: youthful marriages; marriage entered hastily; marriage marked by serious emotional or physical abuse, substance or pornography addictions; deviant sexual practices; profound and consistent irresponsibility and lack of commitment; and serious mental illness, among others. A decision on what grounds the validity of the marriage is to be challenged should be made only after extensive reflection, consultation with your parish priest and based on the proofs that are available. Knowledgeable witnesses are an important source of proof.

18. How can the person who is the cause of the breakup of the marriage get a declaration of nullity?

The declaration of nullity does not assign moral blame, nor does it say that a party in the marriage was innocent. It merely states that valid consent was not given by at least one of the parties. The question is whether or not the marriage bond was created and therefore exists, not who was at fault and caused a divorce.

19. What is the divorced person’s status in the Catholic Church while seeking a declaration of nullity?

Those Catholics who are divorced but who have not entered into another union outside the Catholic Church may – and are encouraged to – receive the sacraments and participate in appropriate parish activities. They do not “need” a declaration of nullity if they have no intention to remarry.

Catholics who are divorced and remarried outside the Catholic Church are not thereby excommunicated, that is to say, they have not received an ecclesiastical penalty. They are in an objective situation which is contrary to

the teachings of Christ, and thus are not able to receive the sacraments at this time. They are still expected and encouraged to fulfill the duties of practicing the faith. These duties include: participation at Sunday Mass, though they cannot receive the sacraments they still pray and give witness to Christ by not absenting themselves from worship, educating their children in the Catholic faith, practicing the works of mercy, personal daily prayer, and following the guidance of the Church, making acts of faith, hope and love throughout the day.

Those who may want to become a Catholic are advised that they must follow the laws of the Church regarding marriage. If one had a previous marriage but is not now remarried, they may be received into the Church. However, the previous marriage is considered binding, until a declaration of nullity is received, if this is possible. If one is now living in a marriage not considered valid in the Catholic Church, the person cannot be received into the Catholic Church until and unless it can be shown they are free from all previously attempted marriages, or if they choose to no longer live with one who is not their spouse. Those who are not Catholic are still welcome and encouraged to worship at Mass, but cannot receive the sacraments. A divorced person is not prohibited from participating in Rites of Christian Initiation of Adults classes, (i.e., Instructions in the Catholic Faith or Inquiry class), with the understanding that participation in such a program does not guarantee an affirmative decision by the Tribunal. If a person is living with a spouse in a marriage that is not recognized in the Catholic Church, they may not be able to be baptized or received into the Church if the previous marriage is not declared invalid. This is because the present situation -is objectively contrary to the teachings of Christ.

20. How much does the Tribunal process cost?

In the past the Lincoln Tribunal met less than 20% of the expenses through fees; nevertheless to help people overcome any perceived obstacle in presenting their case, the Diocese has ceased charging even a minimal fee. The expenses of the Tribunal still must be met through the giving of parishioners across the Diocese. After a case has been closed then a person may give a donation if they wish to do so.

21. How is the marriage nullity process begun?

One who wishes to petition for a declaration of nullity should visit the diocesan website and seek the assistance of a priest. The gathered materials and completed forms are to be reviewed and signed with a parish priest, once everything is completed the information is submitted to the Tribunal office. The Tribunal carefully studies all the presented materials and, if the evidence seems to warrant it, a case will be opened and a formal interview of the Petitioner will be arranged.

22. If I seek a declaration of nullity, does my former spouse have to be contacted?

Church Law requires that the previous spouse be contacted, be informed of the grounds, given the opportunity to give testimony, and name witnesses. While the former spouse does not always exercise this right, the law requires that the person be given the opportunity to participate. It is the Tribunal who contacts the other party. If the address of the former spouse has been sought but is unknown, please give the last known address and include what steps were taken to search for the respondent when the application is made. The address of a member of the family or a friend of a former spouse should then be given.

23. What preliminary application and documents do I need?

The pertinent documents include: baptism certificates or a letter from the church of baptism, marriage certificates, and the final divorce decree (signed by the judge).

Completion of a form with the factual information is needed. If you need assistance a priest will guide you in formulating a one-page petition, asking the Tribunal to investigate the possibility of nullity, and stating facts and the reason for the nullity.

A narrative is written to give the Tribunal a thorough understanding of the backgrounds of you and your former spouse, as well as the courtship, the events that led up to the decision to marry, the wedding itself, and the marital history. It is most important that the Tribunal be given information about the time before the marriage in question, as the focus is on what was happening before and at the time of the wedding, rather than the reason for the breakup. It is important that all of the information that pertains to the alleged nullity of the marriage be given in a truthful, but non-inflammatory way.

24. What is the purpose of the interview?

Once the case is accepted the Petitioner and the Respondent are invited to personal interviews at the Tribunal on separate occasions, never at the same time.

The purpose of the interview is to help the Tribunal gain a better understanding of the family background, courtship, decision to marry, motives and attitudes of the parties, as well as the marital difficulties, and factors leading to the separation and divorce.

The Tribunal may also request those who have received counseling or treatment to sign a release from confidentiality for the counselor or treatment institution; this signed release would allow a report on the counseling sessions to be sent to the Tribunal.

25. Do the parties have the right to see the evidence which has been submitted to the Tribunal for a decision?

The laws of the Church give each party of the marriage the right to review the case file at the Tribunal office. This opportunity happens after all of the evidence has been gathered, at that time the parties will be notified of their right to review the evidence in person and then respond to it. This is solely to give the parties the opportunity to state their views concerning the petition and is not for any other purpose.

26. How does the Tribunal arrive at a decision?

After contacting your former spouse, the Tribunal contacts the witnesses and waits for them to respond. It may be possible that a further interview is needed to clarify the evidence submitted. The parties may ask for the assistance of an Advocate, who is to answer their questions and represent the interest of the parties in the process.

The parties and the Advocates are given the opportunity to review the evidence. The Advocate writes a brief, summarizing the arguments for nullity. The case is then submitted to the Defender of the Bond, whose role is to propose and clarify every reasonable argument that supports the validity of the bond of marriage. The priest judge or judges study the case and draft a judicial decision based on the facts and the law.

The Tribunal is bound to make a decision based on the evidence that has been submitted by the parties and according to the teachings of Christ and His Church. There are cases when one or both parties believe the marriage to be invalid, but there is inadequate evidence to support that conviction.

27. Can the decision be appealed?

Yes. If the decision is that nullity is proven, the decision can be appealed by the defender of the bond or the party who disagrees with the affirmative decision. The case is reviewed again, and a second decision is given.

If a negative decision is given, i.e., that nullity is not proven, an appeal may be made by either party. The petitioner may want to consider changing the grounds, or attempting to gather new evidence rather than appeal. For the Tribunal of Lincoln, the ordinary court of appeal is the Tribunal of the Archdiocese of Omaha. The international court of appeal is the Roman Rota. If the court of appeal overturns the decision of the first court, the matter may be sent to the Rota in Rome.

28. When can I set a date for a future wedding?

Plans for a marriage or convalidation in the Catholic Church can only be made when notified by the Tribunal that an affirmative decision has been given, the time for an appeal has passed and the decision has now become effective.

In some cases the Tribunal may place a caution or special preparation, such as counseling, before a future marriage would be celebrated in the Church. This is done if there is a serious reason to think the same problems may be repeated or others issues come to light which may threaten a future marriage.

A priest is not to set a firm wedding date with a couple or begin formal marriage preparation, until a decision becomes effective and all cautions or requirements are satisfied. Despite the fact that a petition has been submitted to the Tribunal, there is no guarantee that the marriage will be found to be invalid.

29. What if a declaration of nullity is not possible?

One is still a member of the Church but is not free to marry someone else at this time. There are valid marriages that fail for various reasons. Choices made by one or both parties can and do lead to divorce even though the couple validly married. Even if one's spouse was the cause of the breakup of the marriage, one who has truly committed to the marriage is called to holiness by living out the commitment made on the wedding day.

A chaste single life, while not easy, is certainly possible with the help of the grace of God. The life and witness of a divorced persons who choose not to enter another relationship, because they believe they are bound to a previous marriage, are ~~is~~ a tremendous witness of faith that God will assist us with His grace and reward those who do His will. One can find great strength and assistance from the sacraments, family, good friends, and the support of the Church community.

30. Should I date if I have a previous marriage that is presumed to be valid?

A person who is considered bound to their previous living spouse, even if they are separated or civilly divorced, is not free to enter a courtship that may lead to marriage because that would be misleading to others, and could be an occasion of sin. Since a divorced person is still considered to be married, acts and behavior that is not appropriate for a married person would not be appropriate for a divorced person. The teachings of Christ about marriage are not always easy but lead us to heaven.

31. May a Catholic initiate civil divorce proceedings?

Hasty reactions should be avoided by counseling, prayer, and communication about what must happen to restore common life; these serious considerations should include a sincere openness to God's will. Since the marriage bond does remain until the death of one of the spouses it is earnestly recommended that a spouse, motivated by Christian charity and solicitous for the good of the family, should not refuse to pardon their repentant spouse; nevertheless, in very serious cases of spousal desertion, grave bodily harm to spouse or children, grave spiritual harm to spouse or children, or adultery, the Church recognizes a civil proceeding may be permitted for the protection of the innocent.

32. Information on Counseling

Family Life Office
3700 Sheridan Blvd., Suite 7
Lincoln NE 68506-6100
Tel. (402) 488-2040

Catholic Social Services Counseling
3700 Sheridan Blvd., Suite 1
Lincoln, NE 68506
Tel. (402) 489-1834

Catholic Social Services offers counseling in Lincoln and across the diocese. For scheduling or information contact Catholic Social Services at the number given above or contact your local parish.

33. Glossary Terms (Please note: These terms are explained as they refer to marriage and Church law.)

Advocate – one who is knowledgeable in Church law and approved by the Tribunal who can help a party in the marriage present his views to the Tribunal. The advocate may assist the Petitioner or the Respondent.

“Annulment” – see declaration of nullity, an “annulment” is the term frequently used but this term is not precisely correct because nothing is made null.

Baptism – one of the seven sacraments instituted by Christ. To be validly conferred, baptism must be conferred on one who is able to be baptized and include saying the Trinitarian formula, (I baptize you in the name of the Father and of the Son and of the Holy Spirit), by the same person who pours water over the head, (or immerses the one being baptized), with the intention to confer Baptism.

Bond – a cause of a union; a uniting tie; that real unity and restraint of liberty to marry others that is established between two people who exchange valid consent.

Canons – norms or laws contained in the Code of Canon Law. Statements of God’s laws, natural laws, and human laws that are binding on Catholics.

CCC – the Catechism of the Catholic Church. The universal Catechism of the Catholic Church, issued by the Pope and giving the authentic teaching of the Catholic Church regarding faith and morals.

Code of Canon Law – a collection of the canons, or laws of the Church that were promulgated in 1983 by the authority of the Pope who is the supreme legislator in the Catholic Church. The 1,752 canons of the Code of Canon Law are the primary source of Church law for Latin (or Roman) Catholics.

(Marital) consent – an act of a man and woman that brings about a marriage bond. Consent must be given freely and with the intention of establishing marriage according to God’s plan.

Court of First Instance – a Tribunal which first receives, processes and decides on a petition for declaration of nullity. The Court of First Instance for the Diocese of Lincoln is the Tribunal of the Diocese of Lincoln.

Court of Second Instance – the Tribunal which reviews the cases on appeal, or after the appeal of one of the parties. The ordinary Court of Second Instance for the Diocese of Lincoln is the Tribunal of the Archdiocese of Omaha. The international court of Second instance, and all subsequent instances, is the Roman Rota, in Rome, Italy .

Declaration of nullity – often called an “annulment”, is a declaration by a Tribunal of the Church after thorough investigation that a man and woman did not validly enter into marriage.

Defect of consent – when an element of consent is lacking so that the exchange of vows does not bring about valid bond of marriage between the man and woman. The defect can be on the part of one or both parties in the marriage.

Defender of the bond – a member of the Tribunal whose role is to propose and clarify all the reasons why the marriage should be considered valid by the Tribunal. His role is to defend the bond of marriage.

Favor of the Faith – (sometimes called “Petrine Privilege”) a type of marriage case in which the dissolution of a natural bond is given by the Pope if it is proven that at least one of the spouses was not baptized during the whole time of the marriage; the intended spouse is clearly not the cause of the breakup of the marriage; and the non-Catholic party of the new marriage promises that the Catholic party can freely practice the Faith and baptize and educate any children as Catholics. These cases are prepared in the diocese and submitted to Rome.

Holy See – a term used to refer to the Pope together with all of the members of his Curia and the Congregations in Rome who assist him in his role as the Universal Pastor of the Catholic Church.

Indissoluble – not able to be dissolved. A valid consummated marriage between two baptized persons is not able to be dissolved by any power on earth other than death.

Instance – a hearing, or process of a case. By Church law, all petitions (formal cases) for declaration of nullity of marriage that are given a decision in the Court of First Instance could be appealed to the court of Second Instance.

Judicial Vicar – the priest who is the head of the Tribunal, appointed by the Bishop for judicial matters.

Jurisprudence – the science of knowledge or skill of the law, which applies principles to cases. The Church courts are bound to follow the jurisprudence of the Roman Rota.

Ligamen – the impediment of a “prior bond” by which one is not free to enter into another marriage while one’s spouse is still living.

Nullity – when the internal effect of an exterior action does not follow because of some defect, or lack in the externals or the correct intention. Regarding marriage, a marriage lacking some requirement for validity, and in which an external manifestation of consent has no effect, due to the presence of a lack of required form, or of a defect of consent, or of an impediment.

Pauline Privilege – a type of marriage dissolution case, based on the teaching of St. Paul (1 Cor. 7:12-15). When there is a valid marriage between two unbaptized persons, and one of the parties is later validly baptized, and the unbaptized party refuses to physically or peacefully cohabit with the baptized party without offense to God, the natural bond of marriage is dissolved by a subsequent marriage. The Bishop decides questions regarding the use of this privilege.

Petitioner – the person who asks (petitions) the Tribunal to declare their marriage null. This person may be a man or woman, Catholic or non-Catholic.

Petition for declaration of nullity – a written document, by which a person asks the Tribunal to begin the process of investigation of the nullity of the marriage. The petition must state which Tribunal is being petitioned, what is the object of the petition, and the reason, as well as an indication of proofs, and the names of the

parties, their addresses, and include the date and signature of the Petitioner.

Putative marriage – a marriage that was thought to be valid by one or both of the parties at the time (from the Latin word: puto, putare – to think).

Respondent – not the Petitioner, the other party in the marriage, who is given the opportunity to respond to the petition of the Petitioner, give testimony and name witnesses.

Roman Rota – the “supreme court” of the Catholic Church. The Roman Rota is the highest court of the Catholic Church, and is located in Rome.

Sacrament – an outward sign instituted by Christ to give grace. There are seven sacraments, as defined, taught and celebrated by the Catholic Church. Marriage between two baptized persons is a sacrament, that is to say, a means of grace and sanctification for the married persons.

Tribunal – a Church Court, a group of persons assigned by a Bishop to administer judicial matters. Each member has a role to play in the proceedings.

Valid, validity – a reality that refers to the effects of external actions in the spiritual realm.

Witnesses – persons who are named by the Petitioner or Respondent and contacted by the Tribunal to give testimony. The witnesses must be knowledgeable about what was happening in the relationship of the man and woman before marriage and be willing to give testimony when asked to do so.