

Divorcing In Orange County? Have You Considered Seeking Annulment

In Orange County, California, you may terminate your marriage using three legal remedies.

(1) Legal Separation; (2) Marital Dissolution; or (3) Nullity.

Is nullity an appropriate remedy for you? Maybe, but this option is only appropriate where the validity of the marriage is not clear. The difference between marital dissolution and annulment is that the remedies rely on conflicting assumptions.

A marital dissolution action is used to terminate an otherwise valid marriage on grounds that arise after marriage. On the other hand, a nullity is pursued because the petitioner (the filing party) believes that at the time of the marriage, no valid marriage ever occurred.

So, in effect, a nullity action seeks to answer a question. Was there a valid marriage? The court is tasked with finding an answer.

Do you have a valid marriage? Are you sure? Marriages may be considered invalid from the inception because of irregularities in the statutory formalization process that includes obtaining the license, solemnization and authentication. In addition your marriage may alternatively be void or voidable because of other legal defects including but not limited to incest, bigamy, inducement by fraud or force, or where a party or both parties are minors at the time of the marriage.

Even should nullity be an option you must be aware that there are disadvantages of a nullity. The petitioner must prove grounds for a judgment of nullity. Doing so is likely to be complex and expensive to prove. The petitioner seeking may also have to deal with statutes of limitations hurdles. In a marriage dissolution proceeding (typical divorce) fault plays no part. In a nullity action, however, issues of innocence or fault are integral for questions of support and an attorney fees and costs award, as well as determining marital (quasi-marital) property rights.

Parties to an invalid marriage do not have community property rights. But property acquired during the void or voidable marriage, which would have been community property but for the impediment to a valid marriage, may be deemed quasi-marital property and divided in a nullity proceeding as if it were community property. This only happens where putative spouse status is established (that this spouse has a good faith belief that the marriage is valid).

Nullity actions do clearly have disadvantages but there are many benefits as well. Will you please visit my site linked below to read about the benefits. And will you also please schedule a free, confidential consultation while you're there.

About the Author

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