TCMP — Texas Catholic Marriage Project

When One Spouse Wants a Divorce and the Other Disagrees

Plain Language Explanation | Confidential Review Draft v1.0
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I. The Question Behind the Memorandum

When one spouse wants a divorce and the other does not, what must the spouse asking for divorce prove? Is saying the marriage is over enough, or must the court examine whether the legal requirements have been met?

Texas allows divorce without proving that either spouse did something wrong. This is commonly called no-fault divorce. Under Section 6.001 of the Texas Family Code, the reason for divorce is called insupportability. The law connects it to discord or a conflict of personalities that destroys the legitimate ends of the marriage and prevents any reasonable expectation of reconciliation. Reconciliation means getting back together and restoring the marriage. [1]

The phrase legitimate ends concerns the purposes of the marriage that the law recognizes. TCMP questions how courts identify those purposes and decide whether they have been destroyed. The law does not simply say that either spouse's request automatically proves every requirement.

But Texas courts have accepted very short testimony addressing those requirements. In some cases, they have allowed a decision without a full trial. The memorandum examines what room remains for a meaningful challenge to that proof.

The practical answer is this: a spouse may challenge missing proof or a real factual dispute that matters under the law. Simply wanting to stay married may not be enough.

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II. What Happened in the Nicklas Case

In the 2023 *Nicklas* case, the wife gave a written statement under penalty of perjury saying the marriage met the legal requirements for divorce. The husband disagreed and believed they could reconcile. But he acknowledged that his wife did not share that belief. [2]

The trial court decided the insupportability issue through summary judgment. That means deciding an issue without a full trial because the evidence meets the legal standard and there is no genuine dispute about a fact that could change the result. The husband asked the Tyler appeals court to intervene. It refused, concluding that his hope of reconciliation did not create a genuine dispute about his wife's contrary belief.

That decision presents a serious obstacle to an argument based only on one spouse's willingness to keep trying. The Texas Supreme Court later denied the husband's request to intervene, without issuing an accompanying opinion explaining the merits of his case. That denial should not be described as a Supreme Court opinion adopting the Tyler court's reasoning. [3]

III. The Question TCMP Is Raising

TCMP's proposed argument asks whether one spouse's refusal to reconcile necessarily proves everything else the statute requires.

Someone can speak directly about a personal decision: "I do not want to try again." TCMP asks what evidence connects that decision to the other requirements, including the claim that discord or personality conflict has destroyed the purposes of the marriage.

A court may answer that a spouse's first-hand experience and settled refusal adequately describe the breakdown. Several Texas decisions accepting brief testimony support that response. TCMP must address those decisions honestly.

The challenge therefore needs a specific point: what fact is missing, what statement lacks support, or what relevant evidence contradicts it? Calling the testimony too short does not answer those questions. Nor does the other spouse's disagreement automatically require a trial.

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IV. An Explanation Matters More Than Its Length

There is a difference between describing an experience and announcing a conclusion without explaining its basis.

For example, “We repeatedly tried to resolve this disagreement, but every attempt failed” gives information a court can examine. “The law says I qualify, and I qualify” gives much less information. This illustration does not establish a minimum script for proving divorce. It shows why the basis of a statement matters.

Texas evidence law permits people to give opinions based on their own experience. A statement is not automatically improper because it answers the main question in the case. Courts also recognize that an unsupported conclusion may fail to prove a fact. The difficult issue is deciding which kind of statement the court is hearing. [4]

The Fourteenth Court of Appeals addressed both concerns in Trapal v. Dodge in 2025. It rejected unsupported claims offered to obtain an annulment, which is legally different from divorce. Yet it directed the trial court to grant a divorce because the insupportability requirements were established and uncontroverted on that record. The case shows why TCMP cannot claim that courts always demand a lengthy account. [5]

V. What Might Make a Difference

Suppose a spouse says the couple has made no attempt to reconcile during the past year. A recent, genuine message from that spouse proposing a shared attempt could contradict that statement. But if the attempt later failed, the message might not show that reconciliation remains reasonably possible now.

Similarly, paying a mortgage together or cooperating as parents does not automatically prove the marriage can continue. Those arrangements may survive a marriage’s breakdown. The person offering the evidence must explain why it matters to the legal question.

These are examples, not facts established in any particular case. Useful evidence needs context, dates, a reliable source, and a clear connection to something the court must decide.

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VI. What the Memorandum Offers

The memorandum gives attorneys a way to examine the evidence carefully. It asks them to identify the legal requirement in dispute, check what the spouse actually said, examine the supporting facts, and explain why any contradiction could affect the decision.

If the evidence does not justify deciding the issue without a trial, the requested ruling is to deny that motion. That does not necessarily end the divorce case. The spouse seeking divorce may still present evidence at trial. If a genuine factual dispute remains, the proper judge or jury may need to resolve it. If essential information is unavailable, an attorney may seek additional time through the applicable court rules. [6]

The argument does not promise that an unwilling spouse can be made to reconcile or that every opposed divorce must go to trial. It seeks a meaningful examination of the legal requirements and the evidence supporting them.

TCMP's central question is straightforward: has the court determined that the law's requirements are proved, or has it treated the request for divorce as though that request proves everything?

The seven-page memorandum explores that question, the decisions that make the argument difficult, and the steps needed to present it. It offers a proposed argument for attorney review, not a guarantee of success or a conclusion that a particular divorce decree can be reopened.

Sources and Further Reading

[1] Texas Family Code § 6.001. The discussion of marital purposes identifies TCMP's question; it does not supply a definition adopted by a court.

[2] In re *Nicklas*, No. 12-23-00201-CV (Tex. App.—Tyler Sept. 20, 2023).

[3] Texas Supreme Court orders of Feb. 2, 2024, No. 23-0914.

[4] Texas Rules of Evidence 701 and 704; the source memorandum also discusses Justiss, Vela, and Starwood on unsupported opinions and the need to examine their basis.

[5] Trapal v. Dodge, No. 14-24-00770-CV (Tex. App.—Houston [14th Dist.] Aug. 21, 2025).

[6] Texas Rule of Civil Procedure 166a, revised effective March 1, 2026.

Based on TCMP's Contesting Summary Judgment on Insupportability After *Nicklas*, Attorney Review Draft v1.0, October 14, 2026. That memorandum contains full citations, source links, and research limits. This article explains its proposed argument in everyday language. Confidential review draft prepared for a general audience; not approved for public distribution.

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