CONFIDENTIAL LEGAL RESEARCH MEMORANDUM

Threshold Destruction Determination Under Texas Family Code § 6.001

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I. Question Presented

Whether Texas Family Code § 6.001 should be construed to require a threshold determination that the legitimate ends of the marital relationship have actually been destroyed before the court proceeds to consider discord or conflict of personalities as a basis for insupportability.

II. Proposed Answer

TCMP proposes that the court first decide whether the legitimate ends of the marital relationship have actually been destroyed. If the court determines they have not been destroyed, the § 6.001 insupportability claim fails. No further inquiry into discord or conflict of personalities is needed to establish that ground. This is a proposed mandatory sequencing rule, not a procedural requirement expressly stated in the statute or established here as controlling precedent.

III. Governing Statutory Text

Texas Family Code § 6.001 authorizes a court, on petition of either spouse, to grant a divorce without regard to fault if the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation. The text links discord or conflict, destruction of legitimate ends, and prevention of a reasonable expectation of reconciliation. It does not expressly prescribe an order for receiving evidence or deciding those matters.

IV. The Dispositive Threshold

The proposed first inquiry is not whether the spouses disagree, but whether the legitimate ends of their marital relationship have actually been destroyed. If the answer is no, a necessary statutory condition is absent. The claim of insupportability under § 6.001 must fail, irrespective of whether the spouses have

experienced discord or personality conflict. In that event, proceeding to determine the existence or degree of discord would not change the result on that statutory ground.

If destruction is established, the court would then address whether discord or conflict of personalities caused it and whether any reasonable expectation of reconciliation is prevented.

V. Why Sequencing Matters

TCMP contends that taking up discord or conflict first invites a premature conclusion that the marriage is insupportable, without first resolving the separate question whether the legitimate ends of the marital relationship have been destroyed. Requiring a threshold determination gives the destruction language operative effect and avoids treating discord as a substitute for destruction.

The contention is stronger than a request to consider all statutory elements eventually: it proposes an initial dispositive ruling that, when answered in the negative, ends the insupportability inquiry.

VI. Evidence, Mootness, and Preservation of Error

Under the proposed sequencing rule, once the court determines that legitimate marital ends have not been destroyed, further evidence offered solely to prove discord or conflict for the § 6.001 ground is unnecessary to that claim. TCMP characterizes the remaining discord question as moot for purposes of that ground.

A failure of proof on destruction does not automatically expunge testimony previously admitted or make all discord evidence inadmissible for other issues in the case. An evidentiary objection must identify the evidence, its asserted irrelevance or other exclusionary basis, and obtain an adverse ruling as required for preservation. Texas Rules of Evidence 401–403 and Texas Rule of Appellate Procedure 33.1 are pertinent. A motion for a separate or preliminary determination would require independent procedural justification; this memorandum does not assert that existing law mandates such a hearing.

VII. Statutory Construction

Texas Government Code § 311.011 directs attention to context, grammar, and ordinary usage; § 311.021 presumes the entire statute is intended to be effective and a just and reasonable result intended; § 311.023 permits consideration of consequences; and § 311.024 provides that a section heading does not limit or expand statutory meaning. TCMP invokes these principles in support of giving the destruction requirement an independently dispositive role. These principles do not, by themselves, establish the proposed chronology as binding law.

VIII. Anticipated Objection and Response

Objection: The statutory text specifies conditions but does not require the court to decide destruction before hearing discord evidence; proof of discord may bear on whether destruction occurred.

TCMP response: The proposed threshold rule is intended to avoid allowing discord evidence to become a proxy for destruction. Where the court affirmatively determines that the legitimate ends remain intact, the ground fails and additional discord proof cannot cure the missing statutory condition. The separate question whether a court must make that determination before hearing any discord evidence remains a contested procedural proposition requiring authority or legislative clarification.

IX. Conclusion

TCMP proposes a dispositive threshold inquiry into the actual destruction of legitimate marital ends. If destruction is not established, the insupportability claim ends, and no further inquiry into discord or conflict is necessary to decide that ground. This sequencing theory is advanced to preserve the Legislature's separate destruction requirement and avoid surplusage; its mandatory procedural status remains a subject for further legal research.

Authorities for Further Verification

Texas Family Code § 6.001; Texas Government Code §§ 311.011, 311.021, 311.023, 311.024; Texas Rules of Evidence 401–403; Texas Rule of Appellate Procedure 33.1. This memorandum is preliminary research, not a statement that a Texas appellate court has adopted the proposed sequencing rule.