

Annulment Based on Fraud

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I have had several inquiries about annulments lately.

"He married me for a green card".

"I didn't know she was sleeping with someone else."

"He lied about how much money he has!"

I can understand the appeal of an annulment (v. a divorce) in these situations. An annulment basically says the marriage never existed to begin with. There would be no community property to divide; and no spousal support.

However, it's not that simple.

California law is this: An annulment based on fraud requires a **VERY SUBSTANTIAL AND SPECIFIC SHOWING** that the the fraud relates to an issue that is "...vital to the marriage relationship."

Here are some examples, listed in *Williams v. Williams* (1960) 178 Cal.App. 2d 522:

1. A secret intention not to have sex after marriage with spouse;
2. A secret intention of one spouse never to live as husband and wife in same house;
3. Party's concealment that she was pregnant by another man;
4. Concealment of sterility;
5. Secret intention to continue romantic affair with third person.

Bottom line: Annulments based on FRAUD will only be granted where the fraud is related in some way to the sexual or procreative aspects of marriage.

So, in my first three examples....green card fraud is probably not sufficient.

Sleeping with someone else - if the romantic affair was continuous and started before the marriage - could possibly annul the marriage.

Financial misrepresentation would probably not annul the marriage.

In conclusion, when you are seeking an annulment, be sure you request a divorce in the alternative, in case your annulment is denied.