

FILE COPY

S122865

IN THE SUPREME COURT OF CALIFORNIA

En Banc

SUPREME COURT
FILED

MAR 11 2004

BARBARA LEWIS et al., Petitioners,

v.

NANCY ALFARO as County Clerk etc., Respondent

Federick K. Ohlrich
CLERK
DEPUTY

Respondent is ordered to show cause before this court, when the matter is called at the late May 2004 or June 2004 calendar, why a writ of mandate should not issue, directing respondent to apply and abide by the provisions of Family Code sections 300, 301, 308.5, and 355 in the absence of a judicial determination that these statutory provisions are unconstitutional. Pending this court's determination of this matter or further order of this court, respondent is directed to enforce and apply the provisions of Family Code sections 300, 301, 308.5, and 355 without regard to respondent's personal view of the constitutionality of such provisions, and to refrain from issuing marriage licenses or certificates not authorized by such provisions. In addition, pending this court's determination of this matter or further order of this court, all proceedings in *Proposition 22 Legal Defense and Education Fund v. City and County of San Francisco et al.* (San Francisco Super. Ct. No. CPF-04-503943) and *Thomasson et al. v. Newsom et al.* (San Francisco Super. Ct. No. CGC-04-428794) are stayed. This stay does not preclude the filing of a separate action in superior court raising a substantive constitutional challenge to the current marriage statutes.

The return in this matter, limited to the legal question whether respondent is exceeding or acting outside the scope of her authority in refusing to enforce the provisions of Family Code sections 300, 301, 308.5, and 355 in the absence of a judicial determination that such provisions are unconstitutional, is to be filed by respondent in the San Francisco Office of the Supreme Court on or before Thursday, March 18, 2004. In addressing the foregoing issue, the return should discuss not only the applicability and effect of article III, section 3.5 of the California Constitution, but any other constitutional or statutory provision or doctrine that may be relevant to the resolution of the foregoing issue.

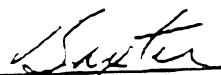
A reply may be filed by petitioners in the San Francisco Office of the Supreme Court on or before Thursday, March 25, 2004.

Any application to file an amicus curiae brief, accompanied by the proposed brief, may be filed in the San Francisco Office of the Supreme Court on or before Thursday, March 25, 2004.

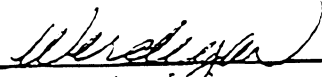
Any reply to an amicus curiae brief may be filed in the San Francisco Office of the Supreme Court on or before Monday, March 29, 2004.


Chief Justice


Associate Justice



Associate Justice



Associate Justice



Associate Justice



Associate Justice



Associate Justice



DENNIS J. HERRERA
City Attorney

March 12, 2004

The Honorable Ronald Evans Quidachay
Judge of the Superior Court
San Francisco Superior Court
400 McAllister Street, Courtroom 302
San Francisco, CA 94102

Re: Supreme Court Orders - *Lewis v. Alfaro* (S122865) and *Lockyer v. City and County of San Francisco* (S122923)

Dear Judge Quidachay:

Given the media coverage, I assume that you are aware of the California Supreme Court Orders in *Lewis v. Alfaro* and *Lockyer v. City and County of San Francisco*. However, as a courtesy to the Court, I attach them here.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read "Sherri Sokeland Kaiser".

Sherri Sokeland Kaiser
Deputy City Attorney

CC: Richard Ackerman, Lively & Ackerman
Benjamin Bull, Alliance Defense Fund
David C. Codell, Law Office of David C. Codell
Jon Davidson, Lambda Legal Defense Fund
Richard DeNataie, Heiler, Ehrman, White & McCauliffe
Tamara Lange, American Civil Liberties Union
Kathleen Lynch, Office of the Attorney General of California
Vincent McCarthy, Center for Marriage Law
Shannon Minter, National Center for Lesbian Rights
Terry Thompson, Law Offices of Terry L. Thompson
Matthew Staver, Liberty Counsel
Robert Tyler, Alliance Defense Fund
Clyde Wadsworth, Steefel, Levitt & Weiss
Bobbie Wilson, Howard Rice Nemerovski Canady Falk & Rabkin