

S122865

IN THE SUPREME COURT OF CALIFORNIA

BARBARA LEWIS, et al., Petitioners,

v.

NANCY ALFARO, as County Clerk, etc., Respondent.

SUPREME COURT
FILED

APR 13 2004

Frederick C. Obich Clerk

The court requests the parties to file supplemental briefs directed to the following questions:

In addition to determining whether respondents exceeded or acted outside the scope of their 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, may and should the court determine in this proceeding the validity of same-sex marriages that already have been performed and registered by respondents?

If the court were to determine that respondents exceeded their authority in issuing marriage licenses to, and registering marriage certificates submitted on behalf of, same-sex couples, would the marriages that have been performed and registered nonetheless be valid, would the marriages be voidable, or would the marriages be void?

If the court were to determine that the same-sex marriages that already have been performed and registered are not valid, should the court order the city to refund fees collected from applicants for such marriages, as requested by the Attorney General's petition?

The court has already received briefing on these questions by amici curiae, but because the parties have not specifically addressed these questions in their briefs, the court is providing the parties an opportunity to do so.

The parties are directed to file simultaneous supplemental letter briefs on these questions in the San Francisco office of the Supreme Court on or before Wednesday, April 21, 2004. Simultaneous reply briefs may be filed in the San Francisco office of the Supreme Court on or before Monday, April 26, 2004.

GEORGE

Chief Justice