

EXHIBIT 4

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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 15 **CITY AND COUNTY OF SAN FRANCISCO**

16 Coordination Proceeding
 17 Special Title (Rule 1550(b))

Judicial Council Coordination
 Proceeding No. 4365

18 **MARRIAGE CASES**

Case No. 428794
(Consolidated with 503943)

19 **PROPOSITION 22 LEGAL DEFENSE**
AND EDUCATION FUND, a California
 20 **nonprofit public benefit corporation, et al.**

PROPOSED FINDINGS OF FACT

21 Petitioners/Plaintiffs,
 22 v.

Action Filed: February 13, 2004
 Hearing Date: December 22, 2004
 Hearing Time: 9:30 A.M.
 Department: 304
 Judge: Richard A. Kramer

23 **CITY AND COUNTY OF SAN FRANCISCO,**
 a charter city and county, et al.,

24 Respondents/Defendants.
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1 The Plaintiff, Proposition 22 Legal Defense and Education Fund (“Fund”), submits the
2 following proposed findings of fact. These findings are based on the expert declarations
3 submitted in support of the Fund’s motion for summary judgment. These proposed findings are
4 submitted pursuant to this Court’s order at the October 26, 2004 case management conference.
5

6 The Fund maintains that this case can be decided *as a matter of law*. Should the Court
7 find it necessary to make findings of fact, however, the Fund submits the following proposed
8 findings of fact:
9

- 10 1. The term “marriage” has always meant the union of a man and a woman. THOMAS DYCHE
11 & WILLIAM PARDON, A NEW GENERAL ENGLISH DICTIONARY (1740); JAMES BUCHANAN,
12 LINGUAE BRITANNICAE VERA PRONUNCIATIO (1757); NOAH WEBSTER, A COMPENDIOUS
13 DICTIONARY OF THE ENGLISH LANGUAGE 185 (1806); NOAH WEBSTER, AN AMERICAN
14 DICTIONARY OF THE ENGLISH LANGUAGE 518 (1830); JAMES KNOWLES, A CRITICAL
15 PRONOUNCING DICTIONARY OF THE ENGLISH LANGUAGE 425 (1851); MERRIAM
16 WEBSTER’S COLLEGIATE DICTIONARY—TENTH EDITION 713 (1993). (*See* Proposition 22
17 Legal Defense and Education Fund’s Appendix of Non-California Authorities, Vol I, ¶¶
18 40-45).
- 19 2. Historically, providing a stable environment for procreation has been the primary purpose
20 of marriage, which advances the common good and serves the public order. Carlson Decl.
21 ¶ 4-5.
- 22 3. Children do best when raised by their natural parents who are bound in marriage- they are
23 more likely to be healthy in mind and body and to succeed in school, work, and in life.
24 They are less likely to be physically, sexually, or mentally abused, to use illegal drugs, to
25 be involved in the juvenile justice system, to become wards of the state, or to attempt
26 suicide. Carlson Decl. ¶ 7.
- 27 4. The fundamental features of marriage today have not changed since the common law
28 definition. Carlson Decl ¶ 9.
5. Marriage does not merely exist to facilitate people’s personal choices to enter into long-
term, committed, intimate relationships. Carlson Decl. ¶ 11 (quoting Cott Decl. ¶ 50).
6. Marriage, as defined across all major cultures and religions, has five functions: 1) it
complements nature with culture to create opposite-sex relationships that are intended to
encourage birth and child rearing in the optimal environment, which is necessary for the

1 preservation and well being of society; 2) it provides children with a parent from each sex
2 whenever possible; 3) it provides children with their biological parents whenever possible;
3 4) it brings men and women together for both practical and symbolic purposes; 5) it
4 provides men with a stake in the family and society. Young Decl. ¶ 3.

5 7. Marriage has six universal features which include: 1) encouraging procreation under
6 specific conditions; 2) recognizing the interdependence of men and women; 3) defining
7 eligible partners; 4) it is supported by authority and incentives; 5) it has a public
8 dimension; and 6) providing mutual support between both men and women, and adults
9 and children. Young Decl. ¶¶ 5 & 48-55

10 8. Marriage, as defined by the six universal features detailed above is a universal norm.
11 Young Decl. ¶ 23.

12 9. Marriage gives men a stake in the family and society, which encourages social stability.
13 Young Decl. ¶¶ 37-40.

14 10. Marriage, as universally understood across culture and religion, is employed to encourage
15 the birth and rearing of children within that context. Young Decl. ¶¶ 43-44.

16 11. The term "committed relationship" does not and has not equaled "marriage" in any culture
17 or world view at any time. Young Decl. ¶¶ 58-59.

18 12. Mutual affection and companionship have never been enough to confer marriage because
19 relationships based solely on mutual affection and companionship do not serve the cultural
20 and societal interests served by marriage. Young Decl. ¶¶ 57-58.

21 13. There are great risks involved in redefining marriage that could have a significant impact
22 on society and culture including risks for children; risks for boys and men; risks for
23 women; and risks for society. Young Decl. ¶ 64.

24 14. The best environment for raising children is provided by an opposite-sex couple who are
25 married. Rekers Decl. ¶ 5.

26 15. Children do best when raised by a parent of each sex. Young Decl. ¶¶ 29 & 65.

27 16. Children do best when they are raised by their biological parents. Young Decl. ¶¶ 18 &
28 65.

17. Children living outside two-biological parent married families tend to exhibit more
behavioral and emotional problems than those who live within two-parent biological
married families. Rekers Decl. ¶¶ 8 & 9 (citing Susan L. Brown, *Family Structure and
Child Well-Being: The Significance of Parental Cohabitation*, 66 Journal of Marriage and

1 Famil 351-367 (2004); Timothy J. Biblarz & Greg Gottainer, *Family Structure and*
2 *Children's Success*, 62 *Journal of Marriage and the Family* 533-548 (2000)).

- 3 18. Children who do not live with both their mother and father experience significantly higher
4 incidence of adverse child and adolescent outcomes, including lowered academic
5 performance, more cognitive deficits, increased adjustment problems, greater
6 susceptibility to delinquent peer groups, more conduct problems, higher rates of illicit
7 drug and alcohol use, higher rates of suicide and homicide, deficits in social problem
8 solving and competencies, deficits in social sensitivity, deficits in social role-taking skills,
9 a poor self-concept, low self esteem, lowered self confidence, less sense of mastery, less
10 self-assertiveness, delayed emotional and social maturity, and increased sexual
11 promiscuity. Rekers Decl. ¶ 11.
- 12 19. A positive and continuous relationship with a father is associated with a good self-
13 concept, higher self-esteem, higher self-confidence in personal and social interaction,
14 higher levels of moral maturity, reduced rates of unwed teen pregnancy, greater internal
15 control, and higher career aspirations. Rekers Decl. ¶ 13.
- 16 20. A father's positive effects are independent of the effects of the mother's influence. Rekers
17 Decl. ¶ 14.
- 18 21. Mothers have influence on their children independent of a father's influence in the
19 development of prosocial behavior, peer acceptance, and cooperative play with peers,
20 which effects how socially well-adjusted children are inside and outside the home. Rekers
21 Decl. ¶¶ 17 & 18.
- 22 22. The natural family structure of dual-gender, married mothers and fathers provides greater
23 benefits for nearly every aspect of children's well-being, including better emotional and
24 physical health, less substance abuse, lower rates of early sexual activity by girls, better
25 educational opportunity, and less delinquency for boys. Rekers Decl. ¶ 19.
- 26 23. Families headed by same-sex couples deprive a child of either the unique positive
27 contributions of a father or the unique positive contributions of a mother. Rekers Decl.
28 ¶ 23.
- 24 24. Children who are raised by opposite-sex couples who are married do far better socially and
25 educationally than children raised by cohabiting homosexual or heterosexual couples in
26 almost every category including language development, mathematics achievement, interest
27 and involvement in sports, sociability, homework, and personal autonomy. Rekers Decl.
28 ¶ 24.
- 25 25. Multiple reviews by psychologists and other social scientists have documented fatal flaws
in the research methods of virtually all of the studies that claim there is no difference in

1 child outcomes between parenting by opposite-sex and same-sex couples. Rekers Decl.
2 ¶ 26; Judith Stacey & Timothy J. Biblarz, *(How) Does the Sexual Orientation of Parents*
3 *Matter*, 66 Am. Soc. Rev. 159 (2001).

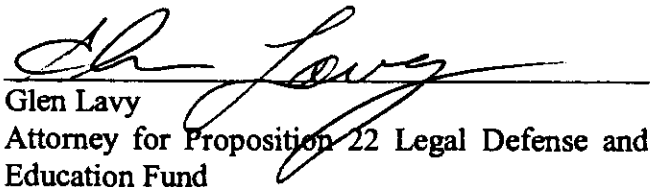
4 26. Homosexuality is not an immutable characteristic such as race. Satinover Decl. ¶¶ 6-8.

5 27. There is no standard definition of who constitutes a "lesbian." Satinover Decl. ¶ 9.

6 28. Homosexuality is not a uniform attribute across individuals that is stable over time, and
7 it cannot be easily measured. Satinover Decl. ¶ 9 (citing Laumann et al., *The Social*
8 *Organization of Sexuality* 344 (1994)).

9 29. Same-sex attraction fluctuates over time and is influenced by factors such as geography,
10 age, and sex. Satinover Decl. ¶¶ 18-21, 22-26.

11 30. Homosexual sexual orientation can be successfully changed with therapy. Satinover
12 Decl. ¶ 32 (citing R. Spitzer, *Can Some Gay Men and Lesbians Change Their Sexual*
13 *Orientation?: 200 Participants Reporting a Change from Homosexual to Heterosexual*
14 *Orientation*, 32 Archives of Sexual Behavior 403 (2003)).

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11 corporation, on its own behalf and on behalf of the people of
California

12
13 SUPERIOR COURT OF CALIFORNIA
14 COUNTY OF SAN FRANCISCO
15

16 COORDINATION PROCEEDING
17 SPECIAL TITLE (RULE 1550(B))

18 MARRIAGE CASES,

19 Coordinated Cases.

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4365
Honorable Richard A. Kramer
Department 304

PROOF OF SERVICE

20
21 I am over the age of 18 years and not a party to the within action. My business address is
15333 N. Pima Road, Suite 165, Scottsdale, Arizona 85260.

22 I served the document(s) described as:

23 **Proposition 22 Legal Defense and Education Fund's Findings of Fact**

24 on the interested parties in this action:

25 **SEE ATTACHED SERVICE LIST**

26
27 (BY ELECTRONIC TRANSMISSION) Pursuant to agreement and written confirmation of the
parties to accept service by electronic transmission, I transmitted originals true
28 copies of the above-referenced document(s) on the interested parties in this action by

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electronic transmission from bbabione@tellaf.org on December 16, 2004 at 3:34:10 PM. Said electronic transmission was reported as complete and without error.

(BY FACSIMILE TRANSMISSION) Pursuant to agreement and written confirmation of the parties to accept service by facsimile transmission, I transmitted originals true copies of the above-referenced document(s) on the interested parties in this action by facsimile transmission from (480) 444-0025 on December 16, 2004 at 3:34:10 PM. A transmission report was properly issued by the transmitting facsimile machine and the transmission was reported as complete and without error. **A copy of said transmission report is attached hereto.**

(BY UNITED STATES POSTAL SERVICE) I am readily familiar with the practice for collection and processing of correspondence for mailing and deposit on the same day in the ordinary course of business with the United States Postal Service. Pursuant to that practice, the above-referenced document(s) were sealed in an envelope, with postage paid, and deposited in a post office, mail box, subpost office, substation, mail chute or other like facility regularly maintained by the United States Postal Service on December 16, 2004 at Murrieta, California.

(BY OVERNIGHT MAIL SERVICE) I deposited in a box or other facility regularly maintained by OverNite Express/Federal Express, an express service carrier, at 15333 N. Pima Road, Suite 165, Scottsdale, Arizona, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, an envelope or package designated by the express service carrier with delivery fees paid or provided for, a copy of the above-referenced documents.

(BY PERSONAL SERVICE) I caused to be delivered copies of the above-referenced documents to the addressee(s) noted above, on _____, at _____ a.m./p.m.

I declare under penalty of perjury under the laws of the State of Arizona and the United States of America that the above is true and correct. Executed on December 16, 2004, at Scottsdale, Arizona.

DATE: December 16, 2004


KALISA CASSEDAY

SERVICE LIST

City and County of San Francisco v. State of California, et al.
San Francisco Superior Court Case No. CGC-04-429539
consolidated with
Woo v. Lockyer
San Francisco Superior Court Case No. CPF-04-504038

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**Proposition 22 Legal Defense and Education Fund v. City and County of San Francisco
San Francisco Superior Court Case No. CPF-04-503943
consolidated with
Thomasson, et al. v. Newsom, et al.
San Francisco Superior Court Case No. CGC-04-428794**

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8 **Tyler v. Los Angeles County**
9 **Los Angeles County Superior Court Case No. BS088506**

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6 **Clinton, et al. v. State of California, et al.**
7 **San Francisco County Superior Court Case No. 429-548**

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