

Legal Advice Is Ambiguous For Same-Sex Couples

■ Views diverge on whether existing marriages will stand and whether the nuptials will affect other contracts.

By John Roemer

Daily Journal Staff Writer

Frederick Hertz, an Oakland attorney specializing in gay issues, last week told a lesbian colleague that current legal uncertainties make it unwise for same-sex couples to marry.

"She agreed," Hertz said Wednesday. "She said, 'It's great political theater, but I can't recommend it to clients.'"

Then Hertz saw the woman in line with her partner at San Francisco City Hall to get their own license.

The disconnect between professional convictions and private yearnings underscores fears over the validity of same-sex marriages — and the mounting pressure on courts to order the chaos.

The tumult reached more U.S. cities this week, with Portland, Ore., Nyack, N.Y., and New Paltz, N.Y., joining San Francisco in issuing marriage licenses to couples of the same gender.

As the movement spread, hard on its heels were opponents. The Alliance Defense Fund planned to ask the Oregon Supreme Court today for an immediate stay on license issuance.

U.S. Senate Majority Leader Bill Frist, R-Tenn., Wednesday accused the local officials who OK the licenses and the judges who have failed to issue injunctions of promoting a "legal domino effect" that could stampede the nation into accepting same-sex marriage as an irreversible fact.

Benjamin W. Bull, the chief counsel for the Alliance Defense Fund, echoed Frist and vowed Thursday to resist.

"Those in the gay rights movement hope to create a critical mass of facts that will make it a done deal, make it too late to squeeze the toothpaste back into the tube," said Bull, whose Arizona-based "traditional family values" group sped to the California Supreme Court last week demanding an immediate stay on the issuance of same-sex marriage licenses.

"We assert these licenses are void *ab initio* (from the beginning)," he said. "They're not worth the paper they're written on."

