STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SUPREME COURT

MARGARET CHAMBERS	:	
	:	
v.	:	No. 2006-0340 M.P.
	:	
CASSANDRA ORMISTON	:	

A CERTIFIED QUESTION OF LAW
FROM THE RHODE ISLAND FAMILY COURT

RESPONSE OF AMICUS CURIAE STATE OF RHODE ISLAND

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

RHODE ISLAND GENERAL LAWS

CASES FROM OTHER JURISDICTIONS

I. INTRODUCTION

This is, again, a simple divorce case. This Court need only decide whether Rhode Island will permit a couple, lawfully married in a sovereign sister state, to obtain a divorce in this state, the couple's state of domicile. Because R.I. Gen. Laws § 15-5-1 et seq. vest the Family Court with the authority to enter divorce decrees with respect to marriages that are valid, void or voidable, this Court must answer the certified question in the affirmative and advise the Family Court that it may and should adjudicate the instant petitions for divorce. This Court need go no further.

II. DISCUSSION

A. The Family Court May Issue Decrees of Divorce With Respect To Marriages That Are Valid, Void, Or Voidable.

Notwithstanding the sincerity of other amici, it is not relevant whether same-sex couples could or should be allowed to marry in Rhode Island or whether a Massachusetts same-sex marriage is valid, void or voidable under Rhode Island law. No matter where the Court were to come down on these issues, the language of § 15-5-1 et seq. clearly and unambiguously compels the entry of a divorce on the basis of the instant petitions filed in the Family Court. Moreover, contrary to the claims of several amici, see, e.g., Brief of Amici Curiae Christopher F. Young at 12; Brief of Amici Curiae United Families International, Family Watch International, and Family Leader Foundation at 27, the General Laws do not require a court to make a preliminary determination as to the validity of a marriage before entering a divorce decree.

This is a point on which the Governor and the Attorney General are in agreement. Indeed, as set forth in their respective briefs, Rhode Island law is designed to be most expansive when reviewing a petition for divorce. As if a "catch all" statute to bestow upon the Family Court a truly expansive ability to dissolve numerous relationships, R.I. Gen. Laws § 15-5-1

provides for divorce from a marriage that is void or voidable.[1] Thus, the legality of the underlying marriage in the eyes of any amicus is not a civil basis to lock Ms. Chambers and Ms. Ormiston in a legal limbo for all eternity. Their marriage was, and is, valid in Massachusetts (and several other countries as well as a yet unknown number of states that will recognize the marriage through comity) and our expansive General Laws provide a statutory basis to dissolve this relationship.

B. The Chambers-Ormiston Marriage Is A Valid Massachusetts Marriage.

There can be no legitimate argument that the Chambers-Ormiston marriage is not a valid Massachusetts marriage. In traveling to the Commonwealth to get married, Ms. Chambers and Ms. Ormiston did no more and no less than what was approved by a final decision of the Massachusetts Supreme Judicial Court. See Goodridge v. Dep't of Pub Health, 798 N.E.2d 941 (Mass. 2003). The Massachusetts Superior Court dispelled any doubt as to the validity of the marriage in Cote-Whitacre v. Dep't of Pub. Health, 2006 WL 3208758 (Mass. 2006).

At least one amicus implies that the court in Cote-Whitacre misconstrued Rhode Island law. Brief Of Amici Curiae Law Professors, Et Al. at 9 ("Law Professors"). This is not the case; the court did nothing more than interpret Massachusetts law and held that Rhode Island couples such as Ms. Chambers and Ms. Ormiston had a legal right to travel to Massachusetts to get married. In so doing, the Massachusetts court interpreted and applied a Massachusetts law prohibiting certain marriages and found as a matter of Massachusetts law that a potential impediment to a marriage of Rhode Island residents was lacking.

Contrary to the Law Professors' brief, see id. at 8 n.4, the Massachusetts Court did not conclude that "Rhode Island does not prohibit same-sex marriages . . . ." Rather, it ruled that

[1] Numerous other statutes include jurisdiction to dissolve valid marriages, giving the Family Court divorce jurisdiction over relationships that are valid, void or voidable marriages.

without an express announcement prior to its independent review, Massachusetts law would not bar a Rhode Island couple from legally crossing the state line to be married. Under any review of this case, the Chambers-Ormiston marriage was validly performed in a co-equal sovereign state.

Other amici's reliance on cases such as Lockyer v. City and County of San Francisco, 95 P.3d 459 (Cal. 2004), and Anonymous v. Anonymous, 325 N.Y.S.2d 499 (N.Y. Spec. Term 1971), is misplaced. Those cases dealt with attempts by same-sex couples to get married in states that prohibit same-sex marriages. Ms. Chambers and Ms. Ormiston are not such a couple. Following a final decision by the Massachusetts Supreme Judicial Court, they lawfully traveled to Massachusetts and were validly married there. Their marriage is one that must be recognized for purposes of divorce by the Family Court.

III. CONCLUSION

Ms. Chambers and Ms. Ormiston seek a divorce from a marriage valid when and where it was performed. This Court should look no further than our General Laws to approve that request. Should this Court desire to issue an advisory opinion on any other issue, it should show the respect for our co-equal sovereign that long-standing principles of comity require.

Respectfully submitted,
STATE OF RHODE ISLAND
By its Attorneys,

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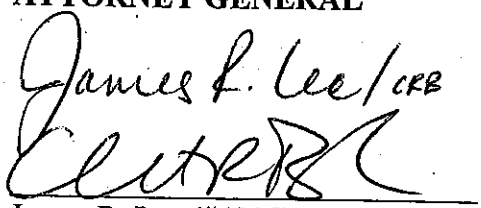

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Date: August 15, 2007

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