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No. 86188-9

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IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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MARY FRANKLIN,

Respondent,

v.

JACKIE JOHNSTON,

Petitioner.

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RESPONDENT MARY FRANKLIN'S SECOND STATEMENT OF  
ADDITIONAL AUTHORITY

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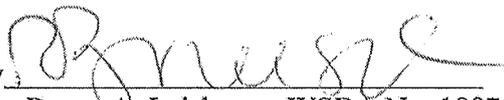
Attorneys for Respondent  
Mary Franklin

Pursuant to RAP 10.8, Respondent Mary Franklin respectfully submits the following additional authorities regarding the issues of (1) a parent's constitutional right to decide upon the care, custody, and control of her child by asserting her preference to co-parent with her same-sex partner; (2) judicial estoppel; and (3) the distinction between a relative placement and traditional foster care placement with strangers.

1. *Frazier v. Goudschaal*, 296 Kan. 730, 753, 295 P.3d 542 (2013) (parent has “the right to enter into a coparenting agreement to share custody with another without having the government interfere by nullifying that agreement”);
2. *Estrellita A. v. Jennifer D.*, 40 Misc.3d 219, 224-25, 963 N.Y.S2d 843, 2013 N.Y. Misc. LEXIS 1552, 2013 WL 1660674 (N.Y. Fam.Ct. 2013) (biological mother judicially estopped from disputing same-sex partner's parental status after successfully asserting co-parentage in prior proceeding); and
3. *S.S. v. Commonwealth*, 372 S.W.3d 445, 448, 2012 Ky. App. LEXIS 110, 2012 WL 2605843 (Ky. Ct. App. 2012) (contrasting “relative placement” with “traditional foster care placements” in applying de facto custodian doctrine).

RESPECTFULLY SUBMITTED this 19th day of August, 2013.

DAVIS WRIGHT TREMAINE LLP

By,   
Roger A. Leishman, WSBA No. 19971

## CERTIFICATE OF SERVICE

I, Crystal Moore, the undersigned, hereby certify and declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct. I am over the age of 18 years and not a party to the within cause. I am employed by the law firm of Davis Wright Tremaine LLP and my business and mailing addresses are both 1201 Third Avenue, Suite 2200, Seattle, Washington 98101-3045.

On August 19, 2013, I caused to be served the attached document entitled **RESPONDENT MARY FRANKLIN'S SECOND STATEMENT OF ADDITIONAL AUTHORITY** to the following individuals:

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed this 19<sup>th</sup> day of August, 2013, at Seattle, Washington.

  
Crystal Moore

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**Subject:** RE: Supreme Court Case No. 86188-9; Mary Franklin v. Jackie Johnston

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**Subject:** Supreme Court Case No. 86188-9; Mary Franklin v. Jackie Johnston

Dear Clerk:

Attached for filing please find Respondent Mary Franklin's Second Statement of Additional Authority.

Attorney:

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Thank you!

**Crystal Moore** | Davis Wright Tremaine LLP

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