

Hearing: 10/26/16
9AM

STATE OF RHODE ISLAND
NEWPORT, SC.

FAMILY COURT

In re Adoption Petition of

██████ H ██████ &
██████ M ██████.

FC Case No.

2015-0877-1
NSS-15-000002

EX-PARTE MOTION TO ORDER PARENTAGE OF CHILD'S MOTHER

Petitioner ██████ M ██████ ("Petitioner") respectfully requests this Court to order, pursuant to R.I. Gen. Laws § 15-8-26, that she is the mother of her daughter, Minor.¹

Petitioner and her partner and wife, Petitioner ██████ H ██████ ("H ██████"), are a family and are raising two daughters together. Petitioner and H ██████ mutually agreed and carefully planned to conceive their children through in-vitro fertilization (IVF) using an unknown and anonymous donor's sperm. Petitioner gave birth to the couple's older daughter who is now six years old. H ██████ gave birth to their younger daughter, Minor, on June 12, 2013 who is now three years old. Petitioner and H ██████ have cared for and nurtured their children and are the only parents their children have ever known.

At the time of Minor's birth, Petitioner and H ██████ were unable to be married in Rhode Island.² As a result, Petitioner was not included on Minor's birth certificate even though the couple

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¹ Minor is a pseudonym.

² Rhode Island's law to recognize all marriages went into effect on August 1, 2013. Shortly after Minor was born, Petitioners did marry in Rhode Island after this state recognized the right to equal marriage.

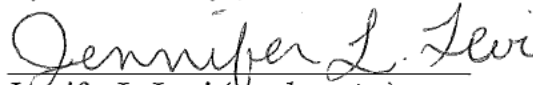
has enjoyed a committed partnership for over 10 years. Petitioner now asks this Court to declare she is a mother and parent to Minor and may be added to her birth certificate.

R.I. Gen. Law § 15-8-26 establishes that “[a]ny interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. The provisions of this chapter applicable to the father and child relationship shall apply as far as practicable.” Relying on this statute, the Supreme Court has already considered and determined that the Family Court has jurisdiction “to determine the existence of a mother and child relationship between [a] nonbiological parent and [a] child” that was born to a same-sex couple that “agreed to become the parents of [the] child” who was conceived through IVF using sperm donated by an anonymous donor. Rubano v. DiCenzo, 759 A.2d 959, 961 (R.I. 2000) (recounting that “[t]wo women agreed to become the parents of a child. They arranged for one of them to conceive via artificial insemination by an anonymous donor. Following the child's birth, they raised him . . . while living together as domestic partners in the same household.”) (emphasis added). Thus, the Court acknowledged the strong parent and child bond that may exist between a child and her non-biological mother who, although “has no biological connection with a child, nonetheless has functioned as a parent in relation to that child and has been held out to the community as the child’s parent by the biological parent.” Id. at 969. In recognition of that strong bond, the Court held that the Family Court does have the power to declare a non-biological mother to be a de facto mother and parent of the child pursuant to R.I. Gen. Laws § 15-8-26.


Like the parents in Rubano, Petitioner and H■■■■ mutually agreed and carefully planned to conceive Minor through assisted reproduction using an unknown and anonymous donor’s sperm. Since her birth, Minor has lived only with the Petitioner and H■■■■ who have cared for and nurtured her. The Supreme Court in Rubano has concluded that two people can become “parents” in this

manner. Id. For the foregoing reasons, Petitioner [REDACTED] M [REDACTED] respectfully requests that this Court order as much – that she is a mother and parent of Minor.

Respectfully Submitted,
Petitioners [REDACTED] H [REDACTED] & [REDACTED] M [REDACTED]
By their attorneys,

 *w/permission K&K*
Jennifer L. Levi (*pro hac vice*)
GLBTQ Legal Advocates & Defenders (GLAD)
30 Winter Street, STE 800
Boston, MA 02108
jlevi@glad.org

-and-


Michael J. Daly (#6729)
Katharine E. Kohm (#8194)
PIERCE ATWOOD LLP
72 Pine Street, Providence, RI 02903
Tel: (401) 588-5113
Fax: (401) 588-5166
mdaly@pierceatwood.com
kkohm@pierceatwood.com