

January 24, 2017 PANEL OF MBI (Manifest Best Interest) Attorneys (GALA)

Panel of GAL attorneys: Susan Somers (Administrative Attorney), Sharon Hornett (Lead Attorney, Judge Ruiz), Jorge Tormes (Lead Attorney, Judge Blumstein), Jessica Yates (Judge Sigler), Kathryn Mason (Judge Lederman), Dana Viggiano (Judge Sampedro-Iglesia), Tiffani Christopher (GM Kallman), Vanessa Espinosa (Judge Cohen), Desiree Marengo (Judge Fajardo Orshan) and Esther Garcia (GM Lieberman).

The overwhelming focus of this meeting was communication. It was a very open discussion that led to productive outcomes. **The biggest “take-aways” are that MBIA attorneys want to hear from the GAL and the GALs want to speak to their attorney.** In the beginning of the meeting we had the various attorneys each answer submitted questions. By the end of the meeting, the question was asked and several different panel members replied or gave feedback/ explanations. It resulted in new recommended procedures which you will read later in the notes.

1. What do you want to know from the GAL?

The most important thing we heard is the attorneys want to hear from YOU prior to your hearings. They also want to be informed when there are important legal issues that arise.

- a. Jorge- whatever you think is really important! No detail is too small. Prior to the hearing he wants to know what you have done, seen and observed.
- b. Tiffani- wants to hear from you. She likes receiving emails and phone calls.
- c. Dana- wants to hear about school
- d. Kathryn- is the child attending day care/school? Medical, dental, etc. Are they receiving the services recommended in the LOCA (level of care assessment).

LOCA — Level Of Care Assessment. It is a thorough evaluation given for every child who has been removed and in licensed placement. The more participants (parents, custodians, case managers, etc.) the more thorough the evaluation. At the end of each assessment are recommendations which become tasks included in the case plan. If you don't have a copy of the LOCA, ask your supervisor or case manager. If it is a recent removal you may find it in Optima. If it is an older case, Optima is not retroactive so you won't find it there. If the child is not eligible (not in licensed care) but you feel this type of assessment is necessary, discuss it with your supervisor/ attorney to determine if a biopsychosocial should be requested in court.

2. What do you do when you don't agree with a GAL's position?

All the attorneys replied that they would staff the case with the team and try to talk it through to resolution. In the event that the differences are not resolved there a procedure in place to escalate the issue. The Circuit Director and Supervising attorney can be consulted to try to resolve the conflict. Hopefully, it is resolved but if not can continue the escalation process.

3. **What is your procedure if/when you change a GAL's report? When do read our reports and what do you look for?**

After several of the attorneys replied, consistent themes were: the attorneys are not changing your position or opinion. The other thing we learned is that in most cases you send your reports to your supervisor who reviews them and forwards to the attorney for review. After review the attorney sends the report back to the supervisor. Unless there is a major issue or question, the attorney will most likely not call you. If you want to be included, put that in the subject line of your report and copy both the supervisor and attorney when you submit your report.

- a. Sharon- checks for legal sufficiency and to make sure that confidential information is not included in the report (ex.. address/name of foster home placement)
- b. Desiree- puts in information she knows her judge wants to see: date of last visit, photo. She likes to staff the case with the GAL 10 days in advance and likes the GAL to bring a rough draft of the report so they can go over it.
- c. Kathryn- we love your reports.... Thank you!!
- d. Dana- wants bullet points
- e. GM Lieberman- reads the GAL report/ recommendations first
- f. Alex Falcon- wants the report 10-15 days in advance so she has time to come back to you with any questions or additional information.

4. **Do you read our notes in Optima?**

In court, if an issue or question arises and you aren't present, sometimes the attorneys can get the information in Optima like: timely input of last visit, your observed interactions.

Even without a scheduled hearing, GAL can always file a status report.

5. **Under what circumstances should a GAL be allowed to speak/not speak in Court?**

- a. Vanessa- Judge Cohen wants to hear from the GAL. I will ask a GAL not to speak if the issue doesn't need to be addressed during this particular hearing.
- b. Desiree- if Judge Fajardo is running late with a super heavy calendar
- c. Jorge- the GALs can speak for themselves unless there is a very contentious issue and it needs to be presented to the Judge in a specific manner to achieve the outcome we want. The only other time he would ask a GAL not to speak is when it isn't the proper time to bring up an issue.
- d. Tiffani- GM Kallman wants to hear from the GAL. The exception would be if court is running very late.
- e. Sharon- the attorneys want to know what you are going to say prior to you speaking in court.
- f. Dana- Judge Sampedro-Iglesia loves when GALS come to court. There is no need for you to come to calendar calls/ filings.
- g. Jessica- when there are issues requiring legal sufficiency or to ensure you don't show bias.

6. **Under what circumstances is it appropriate to exclude a GAL from discussions with other parties? What if there is a change of strategy being considered?**
- Judges require that attorneys try to resolve an issue prior to bringing it to the attention of the court. They are not trying to exclude the GAL- it is understood to be a "best practice" for attorneys.
 - Parties will speak to each other without the GAL when they are discussing plea language.
 - The attorney will speak to the other parties if he/she feels the GAL may be subject to attack.
 - If a new strategy is discussed, they will come back to the GAL to strategize before agreeing to anything.
7. **What do you recommend a GAL do when the attorney for the parents steps in and advises the parent to limit or stop contact with the GAL?**
- Tell your attorney!!!
 - They will advise the court although we have to abide by that. If you have to testify in trial and you are asked if you spoke to the parent, it will be on record that you tried, but they were told not to speak to you.
8. **Do you prefer to hear important information from our supervisors or us directly?**
- They don't care as long as they get the information!*

9. The next 6 questions all centered on the theme of communication. After much discussion covering several of the issues in various formats, we came up with an idea that we feel will improve communication between the GAL and the MBIA attorney. Currently, the majority of communication is between the GAL and supervisor and the attorney and the supervisor. The recommended communication addresses the communication between the GAL and the attorney.

The GAL attorneys want to hear from you! They carry heavy caseloads with many, many children. They don't need to hear the little details of each case, but they do want to be informed about legal issues, your recommendations, what you want addressed at your hearing, your reports and all things "legal". **BEST PRACTICE IS THE WEEK PRIOR TO YOUR SCHEDULED HEARING. PLEASE SEND AN EMAIL TO YOUR ATTORNEY WITH "LEGAL" IN THE SUBJECT. IN THAT EMAIL YOU CAN SET UP A STAFFING- EITHER TELEPHONIC OR IN PERSON WITH YOUR ATTORNEY TO DISCUSS THE ISSUES IN YOUR CASE. You can let the attorney know if you plan to attend your hearing, your priorities or what you hope to accomplish during the hearing and your concerns. A relationship goes both ways and the GAL, attorney and supervisor are a team....DON'T BE AFRAID TO CONTACT YOUR ATTORNEY!!!!**

The specific questions asked were: 1) How do you prepare for your hearings?, 2) How and when do you communicate with the GAL?, 3) What is the best way to communicate with you and an appropriate response time?, 4) Do you want to be copied on emails to supervisors?, 5) How many cases do you handle and how familiar are you with each case?, 6) when is it appropriate for you to participate in a hearing without ever having spoken to the GAL?

- a. If you are including the case manager on an email DO NOT include the attorney. Some issues are more appropriate for the case manager and supervisor.
- b. Most of the attorneys prefer to be contacted by phone or email. If you reference “legal” in the subject line they will pay more attention to your email and will respond!
- c. They want to hear from you prior to your hearings. Your supervisor can set up a staffing 1 week before your hearing or you can reach out to your attorney directly. The phone #'s for all the attorneys are on the attachment.