

MPLP Co-counsel Guidelines

October 1, 2004

Introduction

On more complex cases field programs may seek more direct involvement from MPLP in the case. The MPLP Advisory Board, MPLP and LSAM have developed these guidelines to provide some consistency and clarity when working out co-counseling on shared MPLP/field program cases.

One of the goals of state support is to develop an increased capacity for more complex cases in the field programs. To that end, whenever possible MPLP will co-counsel unrestricted cases with field programs as opposed to simply taking them over. The UMLS Clinic can accept referrals without local program co-counsel on restricted cases of statewide impact. [See <http://www.mplp.org/nonlscreferrals.pdf>]

Requesting Co-counsel Assistance

Programs seeking co-counsel on a case should put that request in writing. A simple e-mail or fax request to the MPLP attorney you are working with will suffice. MPLP will take this request to an intake meeting and respond in writing as soon as possible. The response will include a suggested co-counsel agreement signed by the MPLP attorney.

Negotiating the Co-Counsel Agreement

Upon receipt of the proposed agreement field programs will secure approval of the client and a signature of management on the agreement. A copy of the letter and draft agreement will be sent to the project director of the referring program. Co-counseling will not commence until an agreement is signed by both MPLP and the field program.

Specifics of the co-counsel agreement are negotiated on a case by case basis. Specifics should include:

1. Designation of lead counsel and co-counsel
2. Responsibility for case out-of-pocket expenses. An estimation of costs and

designation of responsibility for their payment should be made at the beginning of the relationship. Authority for approving costs should go to the organization paying costs.

If there are possible fee claims and one or more counsel are able to claim fees then fee distribution should be addressed.

In a typical case, lead counsel responsibilities will include:

1. Approving all documents filed with the court
2. Presenting arguments and evidence to the court
3. Making final decisions on assignments and tasks
4. Negotiations
5. Settlement authority
6. Litigation strategy

In a typical case, co-counsel responsibilities will include as assigned and agreed:

1. Communicating with clients whom it directly represents
2. Drafting documents
3. Conducting research and discovery
4. Presenting argument and evidence to the court

As a general policy, both lead counsel and co-counsel should freely share information. Each should receive copies of all pleadings and correspondence and each should be provided an opportunity to participate in significant litigation decisions.