

Correspondence Regarding Case Plan Development Meeting

Initial email from county attorney office:

Good afternoon. My understanding is that a counsel for both Mr. and Mrs. (parents) plan on attending tomorrow's meeting between the assigned social worker and the (parents). This is highly unusual. These meetings are scheduled routinely between the social worker and parents/legal custodians in order for case planning services to be addressed. It is not intended to be an adversarial meeting. I do not believe it is beneficial to case that counsel for any of the parties to be present. As my client is also represented by counsel, I will now be attending as well.

Since the purpose of the meeting is only to review the case plan and address services, counsel will not be permitted to ask questions of my client as I will not ask questions of your clients.

Please let me know if you have any questions. Thank you.

To which I responded:

I don't understand your assertions that this is "highly unusual" nor that I would have no role at this meeting. Please explain

To which the county attorney office responded

This is highly unusual. The social workers and parents have ongoing, routine contact throughout the course of the case that do not involve the attorneys. Meetings can be as often as weekly at times. In addition to telephone contact throughout. Attorneys are almost never present. In fact, in my years of practice in child protection, I have never had this occur and could only find one coworker who has.

The purpose of the meeting is to exclusively discuss the case plan with the parents. Any legal issues or questions you may have would be directed to me and would not occur in this setting.

Please call if you have any additional questions.

To which I responded:

Yesterday, when I met with my client he advised me that the social worker phoned his wife to schedule a case planning meeting. First, I will say I was quite surprised to learn that one was being scheduled because usually the social worker just plops a completed case plan in front of my client telling them they will explain it and then my client must sign it rather than having a real case PLANNING MEETING WITH THE PARENTS. My clients always question why the plan then says that it was made jointly with the parents when the parents really had no input and certainly did not make it jointly with the social worker. So, naturally I was excited when I believed that this social worker was doing it correctly. I told my client that I typically attend the meeting pursuant to the statute and he welcomed my attendance. However, now that you are

telling me that the case plan was already written and "reviewed during the hold hearing" I will sadly say that this social worker is typical of all others in the creation of the case plan.

I actually like to follow the law and I think the law describes both the method to create the case plan as well as the involvement of the attorney for parents best as follows:

OUT-OF-HOME PLACEMENT PLAN LAW

260c.212

Subd 1(b) placement plan means a written document which is prepared by the responsible social services agency jointly with the parents and in consultation with the GAL...

Subd 1(d) **The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child...The parents may also receive assistance from any person or social services agency in preparation of the case plan.**

The plan needs to be agreed upon by the parties involved or ordered by the court.

Additionally, Minnesota Rules of Juvenile Protection Procedure requires:

Rule 26.02: The out of home placement plan shall include a statement about whether the child and parent, legal custodian participated in the preparation of the plan. Actually I do not see where the law states that the county attorney representing the agency is to attend the case planning meeting, but I have no objection to you being there. **HOWEVER, I WILL FULFILL MY ROLE AS ATTORNEY FOR THE PARENT DURING THE MEETING AND WILL NOT BE TOLD BY YOU HOW I AM TO ACT.**

I received this answer from the county attorney office:

Thank you so much for your email. I, too, like to follow the law and do.

Clearly you are unaware of the meeting that took place immediately following the EPC hearing which included Mrs. (only mom, not dad who is my client), her then counsel, my client, family members and myself where the proposed case plan was reviewed.

The Court, as required under Minnesota Rules of Juvenile Protection Procedure 42.09 issued an Order outlining the need for continued out of home placement and proposed services for the family. Visitation was also addressed in the Order as is required. As you, I am certain, are further aware pursuant to Minnesota Rules of Juvenile Protection Procedure 26.02 the actual case plan needs to be filed within 30 days. The Department is attempting to comply with this requirement by meeting with the family to go over the case plan. I am sure you also know the case plan is voluntary under Rule 26.02 at this point. Your client and his wife are included in the process of creation (as you will see in the final proposed case plan document). So, happily, my client has not simply created the final case plan without the involvement of your client and his wife.

You are correct that you, as counsel, are welcome to attend the meeting to formulate the case plan and your clients can seek your advice as they please. As I stated earlier, I too will be present and will not permit you to ask my client questions that are adversarial in nature. I will not ask your clients any questions.

I look forward to meeting you tomorrow. Have a pleasant evening.