



Elaine O'Reilly, MS, LPC

Counseling & Divorce Services

DIVORCE SERVICES

CLINICAL ORIENTATION:

When I work in the area of divorce I utilize a family systems orientation. That means I not only am trained in assessing individual dynamics, but I am also trained in assessing and treating the interrelationships between members of a family. Unlike more traditional individually oriented therapists, I do not utilize a model of pathology. I believe strongly that family members are doing the very best they can with what they have to work with. Rather than further fueling their conflict (as many CFI's are known to do) I view my role as one of helping divorcing families diffuse conflict and reorganize themselves in the very best way they can in order to support their own personal growth and that of their children during this time of change.



- Home Page
- Counseling Services
- EMDR Trauma Treatment
- Divorce Services
- Elaine O'Reilly - Resume

Divorce Mediation:

If you want to collaboratively create your own divorce agreement but need some help, you might want to consider mediation. As a mediator, I assist separating couples make informed decisions and develop mutually acceptable agreements regarding divorce, separation and post divorce concerns. I am able to mediate the division of your assets and debts, maintenance, tax concerns, your shared-parenting plan and child support. I specialize in cases where there is high conflict, especially regarding the children. During mediation I help diffuse conflict, walk you through the decisions you will need to make to meet the court's expectations, brainstorm options, negotiate agreements, and I can summarize

your agreements in a format that can be presented directly to the court. If it is difficult for you to be face-to-face with your ex or soon to be ex-partner, I can put each of you in a separate room. I would then shuttle back and forth between you, without either of you having to directly interact with the other..

Mediation occurs outside of court, is confidential, and usually is less expensive than a litigated process. Research shows that participants are usually more satisfied with the outcome of mediation than with litigation. Many people ask whether or not they will need an attorney. If you are able to afford it, I always recommend that you use an attorney to assist with this process. Mediators are, by law, neutral. They are not allowed to give opinions or legal advice. When you participate in mediation, your attorney, instead of taking on your case and litigating for you, will be your legal consultant. You will meet with your attorney for a much shorter period of time to obtain legal advice and, at your option, have them review the final documents. Most of my mediations take place without attorneys present, but you have the option of having your attorney with you if you so desire. Although I recommend using an attorney, research shows that the majority of people who participate in mediation do not utilize attorneys.

Some people think that if there is high conflict mediation won't work. I specialize in cases of very high conflict and have not found conflict to markedly impact whether or not you're able to come to an agreement. The main factor that I find correlated with ability to successfully mediate is a desire not to go to court. Even with little conflict, if one or both parties wants to "have their day" in front of a judge or really just "stick it to the other person" regardless of what it might cost them, then the outcome of mediation is often poor. Otherwise, the success rate of the cases I mediate is high - about 80-85% come to agreement.

Shared-Parenting Consultation/Couching for Divorce:

Of all the divorce services that I offer I find this to be the most rewarding and successful. When parents come to me to help them solve their conflict regarding how best to put together a shared-parenting plan for their children, approximately 90% - 95% of those who work with me come to agreement.

When you hire me as a shared-parenting consultant, although you are paying for my services, I am really working on the behalf of the best interest of your children. I will use all my experience and knowledge (as a mediator, family therapist, custody evaluator, and expert witness) to help the two of you reduce conflict and put together a parenting plan that is the very best for your children. Unlike a mediator who is required to stay neutral and not give opinions, **I will actively assess and make confidential recommendations that are based on the the uniqueness of your family, my experience and research findings regarding children of divorce.**

Shared-parenting consultation is a confidential and non-binding process. This means you will be able to openly share without the fear that something you say may be used against you in court. And because you are not required to follow my advice or recommendations, you do not have to fear that you will lose control of the outcome. If you do come to agreement, I can provide you with a written Memorandum of Understanding, that outlines your agreement in a format that can be submitted directly to the court.

Divorce Adjustment Evaluations of Adults & Children:

Parents often worry about how they or their children are adjusting to the divorce. I am trained in divorce and family systems. In a two-hour session I am able to meet with either you or your children, to assess divorce adjustment. I will then, confidentially, share the findings with you highlighting strengths, noting areas of concern and making recommendations.

Divorce Counseling:

Counseling is available for divorcing couples, individuals and/or their children. Counseling can be used to help you understand and resolve issues of divorce, improve parenting, explore feelings, work through grief and anger & learn how to be open to other relationships.

Child & Family Investigations (CFI) & Parental Responsibility Evaluations (PRE):

When couples are divorcing and unable to come to agreement regarding their shared-parenting plan, they may request the Court appoint a Child & Family Investigator or a Parental Responsibility investigation. A CFI/PRE is then appointed by the Court to represent the best interest of the child(ren). As a court appointed CFI/PRE, I would investigate and make recommendations back to the court regarding parental responsibilities including:

- where the child(ren) should live,
- how much time the child(ren) should spend with each parent
- who should make decisions
- how to address any special needs of the parents or child(re)

I would also be available to testify as an expert witness pertaining to my investigation and recommendations.

I charge \$120 per hour for CFI/PRE work and require a \$3,500 retainer, to be paid prior to my commencement of the investigation. In most cases I can complete the CFI/PRE Investigation within the \$3,500 retainer. I do not accept credit cards. Usually I require 90 days to complete the investigation and the attorneys request receipt of the report 30 days prior to the court hearing for a total of 120 days - start to finish. Court Testimony is charged at the rate of \$160/hr - four hour minimum,

portal to portal. Charges for court testimony are in addition to the \$3,500 retainer.

Most of my Child & Family investigations/Parental Responsibility Evaluations include but are not limited to:

- individual interviews with all of the family members and their significant others
- interactional evaluations of each parent with the children
- home visits
- completion of parenting questionnaires
- completion of questionnaires regarding the children
- review of court documents
- review of witness statements provided to the CFI by the parents.
- consultation with professionals who have been involved with the family & children
- optional psychological testing
- optional substance abuse/drug screenings
- optional review of police records
- optional family and/or couple interactional evaluation
- optional interviews with extended family members and others living within the household

In May of 2011, the Chief Judge Directive changed CFI's so that they no longer receive judicial immunity and are capped at \$2,000. Because of this, I am no longer doing CFI investigations. However, if you had wanted a CFI from me, you can appoint me as a PRE, which is not capped, and I will do the same investigation under this title.

Expert Witness Testimony:

I am available to testify as an expert witness regarding best interest of the child in divorce cases.

Fees

- divorce mediation -\$160/hr
- divorce counseling - \$125 for intake; \$110/hr thereafter
- shared parenting consultation/coaching - \$160/hr
- CFI & Parental Responsibility Evaluations - \$120/hr \$3,500 retainer
- Court testimony - \$160/hr, four-hour minimum (portal to portal)

My Thoughts on Selecting a CFI/PRE :

Although I provide CFI/PRE services and it is one of the most lucrative of the services that I offer, I believe people should only enlist the services of a CFI/PRE as a last resort. It is much healthier to resolve your parenting concerns through direct negotiation with the other parent, shared-parenting consultation or mediation. Not only is it healthier, but it is usually less expensive and less time consuming. A really good resource for trying to negotiate your own divorce is Friendly Divorce Guidebook for Colorado by Arden Hauer. The CFI/PRE process almost always pits the parents against each other in a very destructive manner.

Remember, once you finalize your parenting plan, you will still have to work with your ex-partner to successfully parent your children. It is in your best interest and that of your children, to develop a non-conflictual shared-parenting arrangement. Also, if you sincerely care about the well being of your children, you should always remember that if you psychologically harm the other parent, your children will also be harmed, because your children will most likely be living with that compromised parent, at least part of the time. You need to love your children and care about their well being more than you hate your soon-to-be ex-spouse.

Concerning CFI/PRE'S, "you get what you pay for" does not necessarily apply. I would be very wary of the high priced prominent CFI/PRE's (and Parental Responsibility Evaluators-PRE's). Sadly to say, some CFI/PRE's get a reputation for being "hired-guns" or for having a particular strong bias. That is to say, they are known for their lack of objectivity and can be counted on to bring in a recommendation either strongly supporting the party who paid them, or in favor of their known bias. These CFI/PRE's tend to charge more (an extremely lot more) than the average CFI/PRE because attorneys know they are purchasing a particular bias in their client's favor. I am embarrassed that my career field has individuals that would compromise the CFI/PRE process in this manner, but they are there and you need to be wary.

If you are looking for a "hired-gun", do not hire me. When I do CFI/PRE work you can always count on me to absolutely be an advocate for your child(ren)'s best interest, regardless of who paid my fees. As part of my advocating for your child(ren), I will make the CFI/PRE process as least destructive as possible because I also know that it is in your child(ren)'s very best interest to be raised in two healthy households.

Questions you should ask a potential CFI/PRE- First there are the obvious questions:

What are your qualifications?

The State of Colorado does not require any type of licensure to be a CFI. They have outlined a set of courses that a CFI must take. If an individual takes these courses, they can do CFI work, even if their background is in something weird – like veterinarian, janitor, cook, etc. – so I think it would be good to find out what qualifies a CFI's to do this work. My bias is that a CFI should be *licensed* in a field that applies to the type of CFI work they will be doing. If it is about money – you might want an accountant or attorney. If it's about kids, you might want a psychotherapist or psychologist who specializes in children of divorce. I say licensed because that means the individual not only took the course work, they also were tested to see if they learned the material, they are required to participate in continuing education, they have practiced in the field with supervision, and they are accountable to a standard of ethics and grievance procedures.

How many years have you been doing CFI/PRE work?

How many CFI/PRE cases have you completed?

What is your retainer?

How much do you charge per hour?



IF YOU WOULD LIKE TO DIG FURTHER, YOU MIGHT WANT TO ASK THE FOLLOWING QUESTIONS:

I understand that your hourly rate is X and your retainer is Y. Given the last ten CFI/PRE cases you have completed, what was the average total charge to the participants for the investigation? What was the highest charge?

What many participants don't realize is that in most cases there is no set fee for the completed CFI/PRE investigation. The investigator requires a set retainer that you initially were informed of and agreed upon. But the CFI/PRE, at their discretion, is allowed to work as many hours on your case as they determine to be appropriate. When the retainer runs out the CFI/PRE charges you for more hours at their hourly rate. This could go on for quite some time and be very expensive. At this point it is out of your control. **Once appointed, you cannot really fire a CFI/PRE.** In order to get rid of a CFI/PRE you would have to go back to court and convince a judge to un-appoint them. This is a very difficult task. It also makes it look like you want to get rid of the CFI/PRE because they have discovered some things about you that are unfavorable – thus biasing the judge against your case. If you simply stop paying the CFI/PRE, you are seen as being uncooperative. By statute, your cooperativeness can be a factor considered in the overall recommendation. Even if you stop paying the CFI/PRE, the CFI/PRE will most likely still submit a report to court. That report will say that you failed to fully participate in the CFI/PRE process, that you did not pay the fees as you were ordered to do and, as such, you are in contempt for violating the court order. In addition, the CFI/PRE will most likely still continue with their investigation (as they are under court order to do so) and the judge, at the hearing, will reimburse the CFI/PRE for their work by assessing you the fees that you didn't pay. If you don't pay, the judge can hold you in contempt and place sanctions against you (like liens against your home, jail, etc.) Given the above, it is in your interest not only to understand the hourly rate and retainer, but you should also know what the average cost will be if this CFI/PRE is appointed to your case. It is my biased assessment that the more expensive the CFI/PRE investigation, the more likely you are working with a "hired-gun"

because "hired-guns" are the investigators who are most able to command very high fees.

Given the last ten CFI/PRE cases to which you were appointed, how many settled out of court? Of the cases that have gone to court, what was your average charge to the participants for the court proceedings?

It is my belief that cases with biased recommendations more often go to court. Although not always the case, good, fair recommendations more often lead to settlement. As a participant, I would want to know if this CFI/PRE's cases usually go to court and at what frequency. I would also like to get a good estimate of my projected total costs. Therefore I would not only want to know the average cost of an investigation done by this CFI/PRE, I would also like to know the likelihood of going to court and what those average projected court costs will be. (Many CFI/PRE's charge more for court testimony per hour, including travel time and preparation.) If a CFI/PRE goes to court a great deal and charges large amounts of money for this I would be very weary.

While CFI/PRE on my case, if my attorney were to call you and want to speak with you about the case, would you require that all communications include both attorneys or would you be willing to speak with my attorney without the presence of the other attorney?

"Hired-guns" are not neutral. They are really working for one side against the other. As such, they are often willing to collude privately with one attorney without the other's knowledge. As a participant, I would want all CFI/PRE communications to be transparent and open to oversight. I would want there to be a rule that the CFI/PRE never speak or correspond in any manner with one attorney without the other present. All communications from attorneys to the CFI/PRE should also be shared with the other attorney. In addition, I would want it understood that the CFI/PRE would not have private conversations with the judge, without the knowledge of both attorneys. The CFI/PRE's work should be fully transparent so that both sides have the right to examine and cross-examine everything.

Have you ever been grieved or sued for your work as a CFI/PRE, regardless of the outcome?

Simply being sued or grieved as a CFI/PRE does not directly mean this CFI/PRE has a bias. Remember that in most custody cases one or both of the parties of a custody dispute does not get what they want. And these are people who have the means and have shown the propensity to take legal action. It is a highly litigious field. However, if the CFI/PRE has been sued and / or grieved, it would be good to find out why and then make your own determination of what that tells you about the CFI/PRE and their work. In my assessment, "hired-guns" do seem to get sued more often than the average CFI/PRE. If it's a licensed CFI/PRE, you can go to DORA (Department of Regulatory Agencies) and look up

the CFI/PRE's grievance history under their area of specialty. When requested to do so, a licensed individual is required to give you information regarding their license number and how to contact their licensing board.

Another thing to consider:

Although I strongly dislike "hired-guns" and find their work to be unethical, there are times that I have referred my counseling clients to a barracuda attorney known to use "hired-guns". I always believe that the best way to resolve a conflict is the most collaborative way. However, if you are playing a game of cards and the other player cheats, you will loose unless you stop playing or also cheat. It's hard to stop playing when the ante is your children. So there are times when, in order to protect yourself against an all out frontal assault, you have to fight back with big guns.

My answers to thee above questions:

I have a master's degree in counseling psychology with a special emphasis in family systems theory and I am a license professional counselor within the State of Colorado. I have been doing divorce work for about nineteen years and have completed over 150 CFI/PRE investigations. I have also been appointed by the court as a Special Advocate/Parenting Coordinator on fifty plus cases and have testified as an expert witness on numerous occasions. (For more information about my qualifications see the *resume* section of this website.)

I charge a \$3,500.00 retainer and bill at the rate of \$120 per hour. Most of my CFI/PRE cases wind up costing the participants about \$3,500. The highest amount I have billed for a CFI/PRE case is \$4,000. The majority of my CFI/PRE cases settled out of court with only two of the last ten going to court. The average charge for my court appearances has been \$640.00. The highest fee was \$800.00 and that was because the parties wanted me to be at court for an entire afternoon instead of the usual three hours plus one-hour travel. I do not engage in private conversations with attorneys or judges as I believe there should be full transparency so that each party has access to all the information being considered.

I have never been grieved or sued for a CFI/PRE case. My only interaction with the greivance board occurred regarding one parenting coordination case where the mother did not like my recommendation and requested that I be removed from the case. The Licensing Board denied a hearing stating that the issue was not in their jurisdiction and forwarded it to the courts. Following a hearing the judge ruled in my favor and retained me on the case.

Applying Psychological Principles and Systems Theory
to Enhance Business, Family & Personal Growth.



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