

I. General Allegations

1. Bill J. Fyfe is a psychologist licensed in Colorado, license number PSY-782. His principal place of business is 710 Kipling Street, Ste. 306, Lakewood, Colorado d/b/a Columbine Counseling Center. Fyfe advertises that he “specializes in relationship problems (couples and/or family) and outpatient psychotherapy with adolescents and adults.”
2. Fyfe’s business is primarily or mostly from court-appointments in high conflict divorce (HCD) cases. As such, conduct within the scope of these appointments is generally exempt from oversight by the state’s Board of Psychologists Examiners. C.R.S. § 12-43-215(7) ¹
3. By and through these court appointments, which are generally entitled to quasi-judicial immunity, I believe that Fyfe has engaged in the following conduct:
 - a. coerced parties into executing Fee Contracts at rates that are approximately three to seven times the Reasonable and Customary charges paid to child psychologists for equivalent work in the Denver Metropolitan area;
 - b. engaged in inappropriate *ex parte* contact with the judiciary;
 - c. engaged in inappropriate *ex parte* contact with women, who were parties to particular cases; and
 - d. engaged in coercive and extortionate behavior toward litigants.
 - e. Insulted other practitioners in the community

¹ See, also, The Role of the Child and Family Investigator and the Child’s Representative in Colorado, First Ed. (Rob’t M. Smith ed., CLE in Colo., Inc., Supp. 2005) at § A1.7.5:

Colorado mental health professionals serving in some court-appointed roles are generally seen as being exempt from grievances. This relates to a provision in the mental health statute (C.R.S. §§ 12-43-101, *et seq.*) that states:

"The provisions of this article shall not apply to mental health professionals acting within the scope of a court appointment to undertake custodial evaluations in domestic relations cases in the courts of this state or to mental health professionals acting within the scope of a court appointment to undertake domestic and child abuse evaluations for purposes of legal proceedings in the courts of this state."

Fyfe has also been accused of making inappropriate sexual overtures towards women. However, because these allegations —to the extent they are public information— are limited to unsubstantiated anonymous Internet forum postings or innuendo contained within legal pleadings, I do not address them further here.

II. The Desch Matter

In this matter, the district court ordered appointed Fyfe as the “family therapist”:

Both parties agree that family therapy is in the best interest of the minor child . . . Both parties agree to utilize Dr. Fife as recommended previously by Dr. Finney, the Child and Family Investigator, and further agree to attend sessions with the minor child as the therapist directs.

According to father, Fyfe threatened to inform the trial judge that father was non-compliant if father did not remit an additional \$500 retainer, which was never used. Father alleges that Fyfe refuses to return the unused fee. Conversely, when mother could not pay her portion, Fyfe simply said “there is nothing we can do”.

This behavior has surfaced as a pattern in the case anecdotes that follow.

In the *Desch* matter, after the child’s mother failed to take the child to the court ordered therapy for more than 9 months and after father accepted and refused to return fees for services never rendered, father requested Fyfe several times for intervention, Fyfe responded:

David:

Thanks for your email. I am not involved with Cody and have not been involved for many months. I am not an advocate and I have no outstanding balance on your account. I am not in the role of helping you or any family member of any client I either see or no longer see.

Perhaps you need to seek legal counsel.

Bill Fyfe

III. The Arnsberger Matter

4. In Boulder County Case No. 01DR991, Fyfe had been appointed by the court as a third-party neutral “mediator/arbitrator.”² Father alleged that, at the time of this appointment, Fyfe did not offer “mediation” among his several services. Yet, father alleged, during the entire course of Fyfe’s involvement in the proceedings, no mediation occurred and, shortly after his appointment, Fyfe announced to the parties that he was a “parenting coordinator.”³

5. Fyfe testified in court against father regarding his perceptions of father’s parenting skills, among other things. However, even if the role of “parenting coordinator” was statutorily authorized either before or at the time of his testimony, Colo.Rev.Stat. § 14-10-128.1 (7) provides, in pertinent part:

In a judicial proceeding, administrative proceeding, or other similar proceeding between the parties to the action, a parenting coordinator shall **not** be competent to testify and may not be required to produce records as to any statement, conduct, or decision, that occurred during the parenting coordinator's appointment, to the same extent as a judge of a court of this state acting in a judicial capacity.

[Emphasis supplied].

6. Father first met with Dr. Fyfe on March 4, 2004. Father alleged that, at that meeting, **no contract had been discussed or executed.** In April of that year, Fyfe

² The Divorce Agreement adopted by the court on May 22, 2002 provided, in pertinent part:

In the event a dispute arises, which the parties are unable to resolve by and between themselves, including, but not limited to, the upbringing, general welfare, parental time-sharing holidays, activities, education or upon any other issue, which impacts the best interests of the minor children, they shall resolve the matter through mediation, prior to bringing the matter to Court.

³ At that time, the role of “Parenting Coordinator” was not recognized under Colorado law. The role was not authorized until Colorado HB-1171 was signed into law by former Governor Owens in June, 2005. Notwithstanding, Dr. Fyfe has, for many years, been a vocal advocate for adoption of the role of “parenting coordinator” regardless of statutory authority. *See, e.g.,* Bill Fyfe, *The Unfinished Promise of Parenting Coordination*, (summer 2002); Fyfe, *Parenting Time Reconsidered*, (summer 2000).

provided a one-hour purported mediation session to resolve issues regarding parenting time, among other things. Two days later, Fyfe's secretary, Maria, contacted father, inquiring as to how she could fax to him a document. Father accepted the fax at a local grocery store and discovered that it was an Arbitration Award regarding, not only parenting time, but also spousal maintenance (alimony) and other matters that had not been entrusted to a mental health professional.

7. Father alleged that Fyfe later instructed father to "stop complaining and get a job."

8. Notwithstanding Fyfe's protestations to the contrary, he performed arbitration services **without a contract**, without mutual assent of the parties, without court authorization but, with full knowledge of the law,⁴ which was a violation of the APA ethical standard requiring "informed consent."

9. Two emails sent by Fyfe to mother contain admissions by Fyfe that he had been functioning as an arbitrator without a contract and that he was attempting to induce the parties to execute a fraudulently back-dated contract to retroactively conceal his violation.⁵ In these email communications,⁶ Fyfe discussed and proposed case strategies with mother against father (in derogation of his role as a court-appointed neutral):

⁴ See, e.g., Bill Fyfe, *A Systemic Approach to Entrenched High Conflict Divorce*, (Spring 2001) at p. 2 (discussing "Arbitration Power" and acknowledging that "alternative resolution" is available only through "agreement" and noting that, "**Under current Colorado law, court imposed arbitration is not permitted**"). (emphasis added); See also *Privatizing Family Law Adjudications: Issues and Procedures*, 34 Colo. Law. 95 (August 2005) ("A written agreement controls all of the issues, applicable law, and procedures that an Arbitrator must use . . . All adjudications must be entered into voluntarily and only after full disclosure of all material facts"); Beth Henson, *Parenting Coordinator: Understanding This New Role*, 35 Colo.Law. 31 (February 2006) (authority of arbitrator is governed by Colo.Rev.Stat. § 14-10-128.5 and requires consent of both parties); Bill Fyfe, *The Unfinished Promise of Parenting Coordination*, *supra* ("Parenting coordination can be done in a **parent agreed-to** arbitration model") (emphasis added); Ortiz & Mustain-Wood, *Use of the Special Advocate as Arbitrator in Domestic Relations Cases*, 31 Colo.Law 7, p. 123 (contract and mutual assent of parties is mandatory); *Special Advocate Guidelines*, Metropolitan Denver Interdisciplinary Committee (March 2001) (mental health practitioners discouraged from serving as arbitrators).

⁵ The contract Dr. Fyfe provided four months later was for a "parenting coordinator" (not arbitrator).

⁶ See http://www.knowyourcourts.com/Fyfe/documents/2004-06-17_Fyfe-email-exchange.pdf

Complaint re: Bill J. Fyfe, Ed.D.

September 29, 2008

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Dear Sharon,

The fee isn't the issue I am concerned about. I am concerned that David will try to get me off the case because there is no contract. I want him to sign it before I say much more about his behavior. I'll have plenty to say, once we get this PC contract issue handled.

It may well be that I just have to go ahead and state the obvious to David and let him do what he wants with the courts. As I said earlier in the week, David has sent me plenty of emails acknowledging that I have already arbitrated issues, so, to get me off now could be difficult for him.

Let's see how the weekend goes. You should both have my contract by Saturday, which I backdated to 4/2/04, the date I saw you. I had seen David in March.

Cheers,

Bill J. Fyfe, Ed.D.

Dear Sharon:

Thanks for your reply. I am "on hold" purely because I want that PC contract signed before I arbitrate anything else. David is sounding like he wants to get rid of me and he would likely jump at the chance to say he never agreed to use me and hasn't signed a contract.

As to [your] job change, my only concern is that it would have been helpful to hear this from you first, rather than from David. It only gives him opportunity to rant and make further allegations.

I am hoping you don't have a right of first refusal clause, because David could use that to demand [the child] for the overnight [the nanny] takes. I don't have a problem with your plan, but the order could be the problem. If it is moot [sic.] on this, I see no problem.

My talking to [the nanny] would be needed so I can help back David off. I would think it would reassure her that someone can manage further upset from David. I believe all of this is motivated by his allegation over the ending of [alimony awarded to him].

On my fees for this latest round of accusations, etc., I will apportion some of this solely to David, once the paperwork is done.

Bill J. Fyfe, Ed.D.

Parenting Coordinator

10. On December 16, 2004, father reported an incident of physical child abuse to Fyfe. Under the applicable Colorado statute, Fyfe was required to report these allegations to the Child Protective Services of Boulder County. Although he emailed father that, “allegations of child abuse surfacing before the Christmas holidays certainly send [*sic.*] up a red flag,” and “Rest assured, I will be very active on any allegations of abuse that occur when I return from my vacation,” father alleged that he did not comply with the law and failed to report the allegation, which is a violation of Ethical Standard 1.02 (conflicts between ethics, law, regulations and other governing legal authorities).

IV. The Satriano Matter

11. On December 18, 2003, Fyfe wrote a letter to mother long after Fyfe was no longer involved in the case as an appointee. Fyfe’s memorandum⁷ contains scurrilous comments regarding father, at odds with a court-appointed neutral role. In addition, **the memorandum contains desultory and pejorative statements regarding other mental health professionals and attorneys:**

Dear Susan:

I received your message . . . As I have said to you before, fault lies with several individuals who have been involved with your family

The Special Advocate, Stacy Nickolaus, knew full well that the children were becoming severely alienated last year . . . Yet, for some reason, she failed to inform the court of the seriousness of this behavior and then failed to make strident recommendations, which would have refocused this matter on the aberrant behavior of your estranged ex-husband.

The current plan was doomed to failure for several reasons. Lon Kopit, Ph.D., is neither trained nor competent enough, in my view, to assist your family in any meaningful way. While he insisted he has worked with “hundreds” of families with alienation issues, I doubt his skill and training. If you were to ask him whether he is familiar with the writings of Joan

⁷ See http://www.knowyourcourts.com/Fyfe/documents/2003-12-18_memo-fromFyfe-toSusanSatriano.pdf

Kelly, Matt Sullivan, Margaret Lee or Joann Stoitz, I doubt he would know of these individuals. I have taken training with Matt, Margaret and Joann and I am familiar with the current literature in regards to alienation.

Not only has the Special Advocate failed you, but your current attorney has also failed you . . .

. . . I am not surprised that father and his attorney attempted such manipulative behavior. I am convinced that their friendship goes beyond the normal lawyer/client arrangement. Because of this matter, I no longer work with Mr. Parrish, whom I regard as incapable of assisting families, such as yours.

*. . .
The legal system has failed your family miserably, because the court failed to consider the serious nature of father's blinding hatred and misogyny. Had the Special Advocate and officer of the court properly represented the facts of this case to the court, the court could have acted. . . . It is my hope in the future that we will criminalize alienating behavior in severe cases, such as yours. . . . A crime has been committed and, sometimes, the legal system fails. I found you to be a kind and sensitive individual, certainly not perfect, but certainly not deserving of the abusiveness you have had to endure. . .*

*Yours truly,
Bill J. Fyfe, Ed.D.
Psychologist*

V. The Samora Matter⁸

12. Father alleged that Fyfe unilaterally forestalled the enforcement of a Stipulation and Agreement for Temporary Orders, pursuant to a Minute Order entered by the court. The parties had agreed and stipulated that mother vacate the marital property on or before a date certain. Father alleged that, when Police Dispatcher Nancy Gonzales spoke with Fyfe in regard to mother leaving the house, Fyfe told her that mother did not have to vacate the house.

⁸ The *Samora* allegations are excerpted from Samora's Verified Complaint filed in the U.S. District Court for the District of Colorado, No. 04-cv-0094. The case was dismissed for want of jurisdiction, **without prejudice**, on March 28, 2005.

13. On or about June 20, 2003, Fyfe received reports of that certain named persons had physically abused the minor children and, which was recorded in a police report. This incident resulted in a "Safety Contract" between mother, the minor children, and Dr. Michael Smith, a therapist for the minor children. The Safety Contract stated that in the best interest of the minor children, the said persons should not be allowed to be anywhere around the children. Father alleged that Fyfe, not only failed to disclose this information in his reports to the court, but he also had knowledge of continuing incidents in which the said persons were still being allowed to be in the home when the minor children were present.

14. On July 30, 2003, Fyfe intervened in mother's criminal case, submitting a memorandum⁹ in an apparent attempt to persuade the prosecution of mother's purportedly mitigating circumstances, namely that father had contributed to her problems.

I have recently been forwarded a copy of the no contact order in effect between Debbie Samora and Enoch (Levi) Samora. I am well acquainted with this family and have served as the Special Advocate for most of this year.

As you may already know, the Samora matter is a highly contentious one involving serious allegations by both sides of the family. Judge Plaut has issued his order and father now has supervised parenting time with his sons. Father was placed in a supervised setting because he has engaged in alienating behavior, thus making the parenting arrangement between mother and her sons difficult.

I am writing this letter simply to inform you of the difficulty of this case. I am in no way excusing mother's actions if she telephoned father inappropriately. I would suggest, however, that you take a broader look at this family matter as it does not simply involve the viewpoint of one side of the family.

I continue to work with the Samora family as the Special Advocate.

⁹ See http://www.knowyourcourts.com/Fyfe/documents/2003-07-30_letter-from-Fyfe.pdf

This unsolicited contact was outside the scope of Fyfe's special advocate appointment in the domestic relations case and raises serious concerns about the nature of his relationship with mother.

15. Notwithstanding Fyfe's position on the Samora matter, father has been awarded sole custody of his children because of mother's continuing conduct.

VI. The Rivenburg Matter

16. Fyfe was appointed by the court to conduct custody evaluation in case 97JV652 in the First Judicial District Court. During that time, certain comments were made to mother that she regarded as intimidating. Specifically, mother alleges that, while mother was raising concerns about Fyfe's conduct, Fyfe told her, "I know all the judges in this county."

17. Incident to these comments, mother was asked to testify against Dr. Fyfe in a federal lawsuit against him and mother's name was identified in court pleadings. Later, Fyfe was reappointed by the court to do an update on the evaluation in mother's case. Prior to the reappointment, mother wrote Fyfe, stating that she believed that his continuing involvement was a conflict of interest in light of the fact that she had been asked and agreed to testify against him. Fyfe directed his secretary, Maria, to inform mother that there no trial date had been set and, therefore, he reasoned, no conflict existed. He also sent a letter to the judge stating that there no lawsuit that was "going to trial" and he was, therefore, available to accept the appointment. APA ethics code 3.06 (regarding conflict of interest), provides:

Psychologists refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to (1) impair their objectivity, competence, or effectiveness in performing their functions as psychologists or (2) expose the person or organization with whom the professional relationship exists to harm or exploitation.

18. Regarding the original evaluation, father was ordered to pay the initial evaluation costs. After a hearing, mother was ordered to pay for a portion of the evaluation. Once mother received a statement from the opposing party, mother noticed that Fyfe had charged a \$1,500 "set up fee," which was nearly *three* times the amount that he had

charged for the evaluation of the minor child. The first time mother asked Fyfe for an explanation of these charges, Fyfe ignored her request; the second time, Fyfe told mother that he does not provide explanations of his fees. He suggested that she direct her concerns to the court or the opposing party.¹⁰ Mother reasoned out that no reasonable professional person (at least an honest one), would refuse to explain such an exorbitant fee. Mother believes that she is without a traditional remedy in tort or in contract, because Fyfe's extortionate conduct takes place in the context of court appointments and the court's need for his "services."¹¹

VII. The Harrington Matter

19. On April 14, 2004, Fyfe charged father 100% of fees that had been ordered *pro rata* 50% by the trial court's August 21, 2003 Order of Appointment. These same fees had also established at a rate of 50% in the Contract for Services executed by Fyfe and father on December 30, 2003.

20. On April 22, 2004, after father had refused to pay the additional fees (relying on the court's Order of Appointment and our Contract for Services), Fyfe complained to the judge, leveraging his fraternity with the judge to facilitate his extortionate scheme.¹²

21. The Court of Appeals reversed the trial court's latter order that required father to pay the fees that Fyfe was attempting to extort. *See In re Marriage of Harrington,*

¹⁰ "Concerning your comments about a "breakdown of all the charges," I do not provide any further information as to my fees." February 27, 2006 memorandum of Bill J. Fyfe to Rhonda Rivenburg

¹¹ *See, e.g., Galatzer-Levy & Kraus, The Scientific Basis of Child Custody Decisions* (Wiley & Sons, Inc. 1999) at 4 ("the position of the court's supporting services is so significant, that court-appointed special masters, mental health professionals and third-party neutrals' opinions are almost always adopted by the courts."); *see also* Colo. D.o.R.A. 2003 Sunset Review at 41 ("Judges rely extensively on the recommendations made by these appointees. This is also a reason to instill greater accountability").

¹² Fyfe and the judge at issue in this matter were both on the Board of [twelve] Governors of a self-described lobbying group, the Colorado State Interdisciplinary Committee. The SIDC described itself as a, "group of professionals (lawyers, mental health professionals and mediators) who are committed to minimizing the negative effects of divorce on children. Members share tools, strategies, and support. Committee activities and lobbying aims towards more attention to the effects of divorce actions on children and ways to handle such cases." In addition, this same judge is the only judge whom Fyfe aggrandizes by name in his newsletter publication, appearing in the Winter 2004 issue entitled *Divorce Muda* at p. 2. (No other judge is mentioned in any of his other articles for as far back as archives are available for public viewing (five years).

(Colo. App. No. 04CA1161, Mar. 9, 2006) (not published pursuant to C.A.R. 35(f)) (*Harrington II*).¹³ In noting Fyfe's conduct towards father, the Court wrote:

[I]t is not apparent to us why the special advocate had an interest in writing to the court to request a different allocation of his fees. Presumably, had the special advocate not written to the trial court requesting a different allocation of his fees, those fees would have been paid equally by father and mother, and the special advocate would have been fully paid.

Id. at 6-7. Note that No. 04CA1986 (*Harrington III*) and 07CA0379 (*Harrington IV*), both concerning Fyfe, were also decided in father's favor by the Colorado Court of Appeals.

22. On May 25, 2004, Fyfe suggested that he would recommend that father have parenting time restored immediately but *only* if father would commit not to sue him over the breach of contract (regarding fees) described above.

23. On May 28, 2004, Fyfe requested that father withdraw a grievance filed with the State licensing Board of Examiners in exchange for Fyfe's implied waiver of the fees (the same fees that were in breach of the aforesaid Contract for services, which fees were later reversed by the Court of Appeals).¹⁴

24. Fyfe retaliated against father in his parenting evaluation by specifically mentioning that father had challenged his extortionate scheme of the fee Contract and that father had filed a complaint with the state's Grievance Board.

25. On January 20, 2005, Fyfe violated the trial court's May 4, 2004 Order (before it been reversed by the Court of Appeals) by issuing an invoice that charged additional fees that were not authorized by either the May 4th Order or the original Order of Appointment.

¹³ See http://www.knowyourcourts.com/Pleadings%20&%20Orders/04CA1161/2006-03-11_opinion_04CA1161_.pdf

¹⁴ See http://www.knowyourcourts.com/Fyfe/documents/2004-05-28_transcript-Fyfe-voiceMsg.pdf

26. On January 20, 2005, Fyfe violated the state's Chief Justice Directive 04-08 by sending an *ex parte* memorandum¹⁵ to the same trial judge in an effort to hold father in contempt and to collect those fees that were in breach of the Contract, which fees were reversed by the Court of Appeals in *Harrington II*.¹⁶

27. In considering the foregoing allegations, Dana Cogan, M.D., prepared a peer-critique of the Fyfe's conduct in this matter.¹⁷ Dr. Cogan concluded in his Affidavit that Fyfe's conduct was: "below the standard of care for special advocates in the Denver metropolitan area," *id.* at ¶ 22, 28, 32, 37, 39, 61; a "violation of a professional boundary and below the accepted standard of care for mental health professionals," *id.* at ¶ 27; and "below the aspirational guidelines promulgated by the American Psychological Association." *id.* at ¶ 33. Dr. Cogan describes each of the APA standards that were violated.

VIII. The Kramer Matter

28. Father alleged that, during his first appointment with Fyfe for the purposes of a parental evaluation to determine custody, Fyfe "bullied" father into signing a non-court sanctioned Contract for Services.

29. Father balked at the extended cost, because they were inconsistent with the court's fee schedule. Father alleged that, when he asserted that the fees were unreasonable, Fyfe became angry and then preceded to threaten to report father to the court for "noncooperation." Fyfe added that failing to execute the contract would most likely result in a contempt finding, including a significant fine and/or jail time. Father also alleged that Fyfe "insinuated" that he would recommend immediate suspension of father's parenting time if father didn't sign the contract, as drafted by Fyfe.

30. Father alleged that he signed Fyfe's contract "under extreme duress," for fear of retaliation from Fyfe and losing access to the child.

¹⁵ See http://www.knowyourcourts.com/Fyfe/documents/2005-01-20_complaint-from-Fyfe-to-Tidball.pdf

¹⁶ Standard 18 of the CFI Standards provides that, "The CFI shall have no private or ex parte communications with the court."

¹⁷ See http://www.knowyourcourts.com/Fyfe/documents/2005-05-11_Affidavit-of-Cogan-II.pdf

31. Father alleged that, during the course of the parental evaluation, Fyfe sent father an inappropriate email. The email contained legal advice and exhorted father to rehire his lawyer or suffer consequences:

I have read your recent email to Fran Fontana and I want you to know this is not the way to respond. Your anger is going to become more of an issue than it needs to be if you persist in this kind of communication. . . . Every time you send something like this out you enflame and give Kyle just what she needs - evidence of how difficult you are. Please do not argue with me about this. I'm just trying to help you.

My advice is to re-hire your lawyer and tell her you are sorry for acting like a jerk. Tell her its been a tough time and you will take her advice and work towards a settlement. Judges don't like to see clients firing lawyer after lawyer - it gives them the idea you are difficult to deal with . . .

32. During the course of the parental evaluation, father discovered an article by Fyfe on his Web site outlining his stance *against* 50/50 parental custody and entitled, "Vote No on the 50/50 Presumption."¹⁸ Father's believed that this demonstrated a bias that affected Fyfe's ability to function as a court-appointed neutral. When father confronted Fyfe about the article and expressed his concerns, Fyfe threatened father, saying he would contact the court. The following day, father alleged, the article had been removed from Fyfe's Web site, whilst all the other remained intact.

¹⁸ See http://www.knowyourcourts.com/Fyfe/documents/CCCViewpoint_50-50_custody_.pdf