

BIA Fee Petitions

1. NEVER begin a BIA role without a Court order; don't "start early."
2. Be certain that nothing in the Order appointing you requires an action not sanctioned by the BIA Guidelines (Rules Vol. 2, pp 832 – 36). If it does, or if it is not specific enough, tell the court and get it fixed before you start.
3. If you are appointed by Agreement, make sure the Agreement is consistent with the Guidelines and your own Court's practice. If it doesn't, tell the parties and the court and get it fixed before you start.
4. Consider drafting a "ground rules" statement that you distribute in every case to counsel and parents, and to children when age appropriate.
5. Ask the parties to send you relevant docs IN WRITING; if possible, ask the court to put it in the order. This will help later when copying costs become an issue.
6. Equal time is impossible, but be careful of wildly disparate time spent with each parent.
7. Be specific on your bill; details are important.
8. Send monthly bills, with a letter that explains (unless the appointment order specifies otherwise) the bill is for informational purposes and that the parties should not pay it without a court order directing same.
9. Consider sending a letter with your bills that that unless a party takes issue with the bill in writing within "x" days, you will consider the bill unobjectionable.

Does this eliminate the challenge? NO

But it goes a way toward quieting the opposition

10. Never meet with one side without the other unless you have documented it with everyone ahead of time
11. In general the court will expect that you not charge your normal hourly rate. Consider insisting the Court establish the rate in the appointment order. Insist on this if your appointment is to be by Agreement.
12. If you intend to delegate (associates, paralegal, etc under your direct supervision), make sure the parties know that is what you intend and agree before you do so UNLESS your jurisdiction has its own protocol which allows for this.
13. Suggest your jurisdiction develop a protocol (see Balt Co)
14. YOU MUST HAVE MALPRACTICE INSURANCE.
15. Ask the court for interim awards of fees; the parties need to be trained early on the reality of payment of the BIA.
16. Find out if your court has a rate cap and decide if you can live with it; if not, don't take a case.
17. Very hard to do BIA work if you have never represented a parent in a custody case.
18. Try to stay out of fee allocation disputes. That's the court's job.
19. You may be called to testify about your bill. Do not testify without consulting a lawyer.
20. If you end up in a fee dispute in BIA case, HIRE A LAWYER. DO NOT REPRESENT YOURSELF.
21. Depending on the allegations, you may want to consider notification of your malpractice carrier.