

## **EARLY NEUTRAL EVALUATION**

**Early Neutral Evaluation (ENE)** is a process whereby:

- an evaluator is appointed by the court or chosen by the parties
- to intervene in a lawsuit for the purpose of narrowing the issues, assisting in a review of the case and/or developing a case management plan, and
- assisting in settlement, if appropriate.

ENE is a non-binding, confidential evaluation process conducted early in a lawsuit by a neutral evaluator. The evaluator is typically a senior attorney recognized as an experienced litigator and/or knowledgeable in the applicable area of substantive law. The primary purpose of ENE is to obtain case control and management. This may be accomplished by developing a discovery plan, narrowing the issues, or eliminating unnecessary parties. A secondary purpose of ENE is to assist with case settlement.

The evaluation session is typically held within sixty (60) days after the case is at issue, or even sooner. Both sides may give the evaluator a written, pre-session statement of their case. At the ENE session, the parties make short and informal case presentations. The evaluator may question the parties and their attorneys to clarify and develop issues. The evaluator then facilitates a discussion that identifies areas of common ground and agreement. This is designed to produce stipulations to be filed with the court which will simplify and streamline the case.

After the discussion, the evaluator prepares a written evaluation which may be the functional equivalent of a judgment or may state what is needed before a judgment can be rendered. Before the written evaluation is presented, the evaluator may conduct settlement negotiations with the parties. If settlement is not achieved, the evaluator presents his/her written evaluation. The evaluator may then conduct another round of settlement negotiations.