

Family Court 4th Judicial District Court Hennepin Co. Minnesota
Financial Early Neutral Evaluations

How Does ENE Work?

At the Initial Case Management Conference (ICMC), the Court may recommend that the parties and their attorneys participate in the financial ENE process if they have one or more outstanding financial issues. Cases referred would be cases that would be helped by informed recommendations by an evaluator.

What is the Purpose of an ENE?

The purpose of an ENE is to provide parties with an early neutral evaluation of one or more financial issues with the expectation that if the parties have the neutral information, they will be better able to reach an early settlement before the parties' financial resources are expended on litigation. When parties are able to weigh the costs of pursuing adversarial evaluations and litigating financial issues versus an efficient, economical settlement early in the case, most parties favor the early settlement. Often, settlement can occur before significant time and money has been spent.

If you participate in the financial early neutral evaluation, your first meeting with the evaluator will occur within seven (7) days of the Initial Case Management Conference, unless for extraordinary circumstances, the Court permits a later start.

At the initial meeting held within seven (7) days, the evaluator will initially ask for presentations by counsel or with the parties to learn more about the issues. The evaluator will then determine what other information needs to be exchanged and provided to the evaluator. The evaluator may also ask questions of the parties or seek data from third parties.

The early neutral evaluation process must be completed within sixty (60) days. Within that 60 day period, you will either reach a settlement or inform the Court that no agreement has been reached. If an agreement is reached, the attorneys will cooperate with the evaluator and the Court to draft the necessary documents to make sure that the agreement is enforced.

Anything that is said or done within the context of the evaluation is confidential and cannot be admitted into Court. This does not mean; however, that if there are documents that would otherwise be available to the parties, that they cannot be provided to the Court. Solely because a document is presented at the Initial Case Management Conference or early neutral evaluation stage does not mean that it can never be used, if it were otherwise be available to the parties. The recommendations of the early neutral evaluator and any statements of settlement or compromise made in the process cannot be admitted into Court. Similarly, settlement conference discussions, which may be revealed at an early neutral evaluation, remain confidential.

The early neutral evaluator will not report the content of the evaluation to the Judge. The communications that the evaluator has with the judicial officer will be for the purposes of informing the Court that the case is not appropriate for early neutral evaluation. Also, with the written consent of the parties, the evaluator may inform the Court that an additional ADR process, such as mediation, will be helpful to facilitate the ENE process. With the written consent of the parties, the evaluator may also identify any issue that, if resolved, would facilitate settlement.

If the early neutral evaluation process is unsuccessful, then the matter will be returned to the Judge assigned to your case, who will set a discovery timeline and schedule the matter for pretrial and trial.

You will be entitled to choose an evaluator from a recommended list provided by the Court. You will need to agree with the other party on who will serve as the evaluator or the Court can appoint an evaluator. Typically, the evaluator's fees are paid one-half by each party. Evaluator's fees are set on a sliding fee scale depending on the assets and income of the parties.