

## EARLY NEUTRAL EVALUATION CONFIDENTIALITY AGREEMENT

ENE is a confidential service intended to provide you with a setting in which you may speak openly and not fear that your statements will be shared with the Court. It is controlled by Rule 114, which states: "Statements made and documents produced in non-binding ADR processes which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial, including impeachment, except as provided in paragraph (d)." (emphasis added) Rule 114.08(b). To comply with Rule 114, information you provide will be handled in the following matter:

1. Any notes taken by the ENE evaluator(s) are kept in a file which only they may access.
2. Any notes taken during telephone conversations with doctors, teachers, therapist or other collateral source, are kept in the file with the ENE evaluator's notes. Only the evaluators may access them.
3. The evaluators may not be deposed or subpoenaed, and may not give testimony regarding any information obtained during the ENE.
4. The evaluator(s) will not share information from the ENE with anyone, even if you sign a release of information for them to do so, except in the following circumstances:
  - a. If an ENE evaluator is a mandated reporter, information received by them involving physical or sexual abuse of a child or vulnerable adult that rises to the level of being reportable, must be reported to Child Protection or a law enforcement agency. The evaluator has no discretion over the release of this information. Additionally, evaluators will report threats or suspicion of future bodily harm toward another or threats of suicide.
  - b. The Court is notified of the outcome of the ENE in one of the following ways:
    - (1) If the evaluator concludes that your case is inappropriate for ENE, they will communicate such to the Court.
    - (2) If you reach full settlement: the Court will be given a summary of your agreement and will be advised which party or attorney will draft the settlement and when it will be done.
    - (3) If you reach settlement on some but not all issues: the Court will be given a summary of what agreements were reached and what issues were not resolved. Further evaluations may be requested, including chemical or psychological assessments. The evaluator(s) will not tell the Court why such assessments are needed.
    - (4) If you do not reach agreement on any issues: the Court will be advised of what services the evaluator recommends. Again, further evaluations may be requested, including chemical or psychological assessments. The evaluators will not tell the Court why such assessments are needed.
5. Following a CPENE, should you proceed with mediation or a custody evaluation, neither evaluator will conduct the mediation or evaluation and neither of them may talk to or share notes with the mediator or evaluator about your ENE.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Evaluator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Second Evaluator (for CPENE only)

\_\_\_\_\_  
Date