

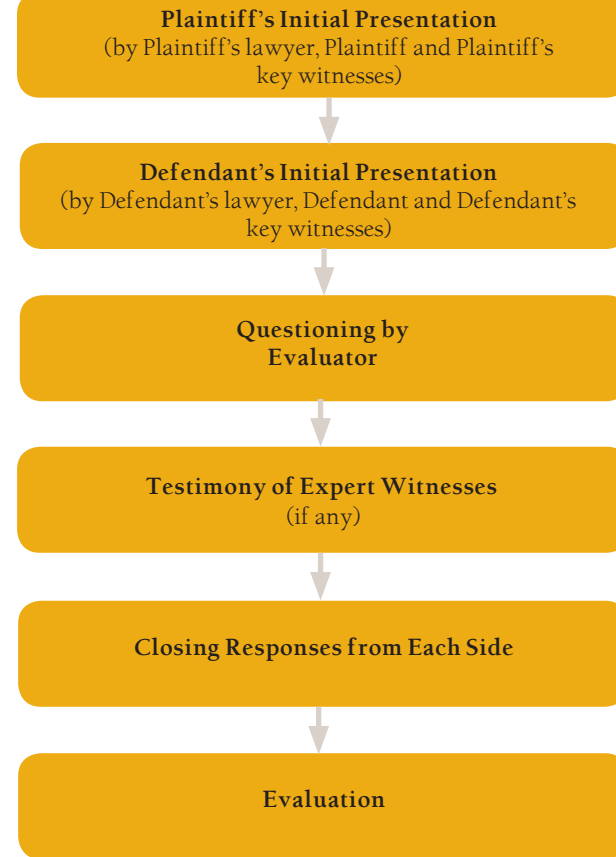
Who has to be present at a Neutral Evaluation hearing?

The parties and their lawyers should attend the hearing. The factual and expert witnesses whose identities are confirmed and agreed upon at the Preliminary Conference should attend the hearing.

In the case of corporations and other entities, any representative who has the authority to settle the case should attend the hearing. If only a board or body has the authority to settle on behalf of the entity, the entity should send the person who is the most knowledgeable about the case and who is able to recommend a settlement to the board or body to attend the hearing.

What happens at the Neutral Evaluation hearing?

At the Neutral Evaluation hearing, the parties and their lawyers will present their respective cases and the available supporting evidence to one another and the evaluator. The key witnesses on each side will be called to testify. The usual procedural and evidential rules in a trial will not be applied strictly. Cross-examination of witnesses will generally not take place. When separate expert witnesses are called, they would give evidence using the expert witness conferencing approach, which involves a joint discussion of the expert issues amongst the experts in the presence of one another. The evaluator may, at any time during the Neutral Evaluation hearing, ask questions to probe or clarify any submission or evidence presented by the parties and their witnesses. Where suitable, the evaluator would also identify areas of agreement or disagreement. The parties would also be given the opportunity to make their respective submissions or arguments. After all presentations and evidence have been made or delivered, the evaluator will give an oral assessment of the merits of the parties' case.



When I use Neutral Evaluation, am I able to attempt other ADR processes later?

Yes. If the parties are unable to settle their case after Neutral Evaluation, the Judge may recommend that other ADR processes such as mediation be pursued. Similarly, if the parties are unable to settle at mediation, parties are not precluded from opting for Neutral Evaluation thereafter.

This information is also available at www.statecourts.gov.sg>Civil Justice Division>Court Dispute Resolution/Mediation.



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Neutral Evaluation

- What is Neutral Evaluation?
 - How is Neutral Evaluation different from mediation?
 - Is Neutral Evaluation binding on the parties?
 - What are the benefits of Neutral Evaluation?
- and other information*

Neutral Evaluation

What is Neutral Evaluation?

Neutral Evaluation is one way of resolving a dispute without going for a trial in Court. This process is provided by the Primary Dispute Resolution Centre (PDRC) of the State Courts. During Neutral Evaluation, the parties, with their respective lawyers, present their respective cases and the key evidence to the evaluator, who is a Judge. The evaluator will provide his best estimate of the parties' likelihood of success at trial. The parties can use this evaluation to settle their case or as a starting point to negotiate a settlement.

Apart from Neutral Evaluation, there are other ways to resolve your dispute without going for a trial in Court. For more information and to find out how to choose the best option, please refer to the brochure "An Overview of Alternative Dispute Resolution" or www.statecourts.gov.sg>Civil Justice Division>Court Dispute Resolution/Mediation.

How is Neutral Evaluation different from mediation?

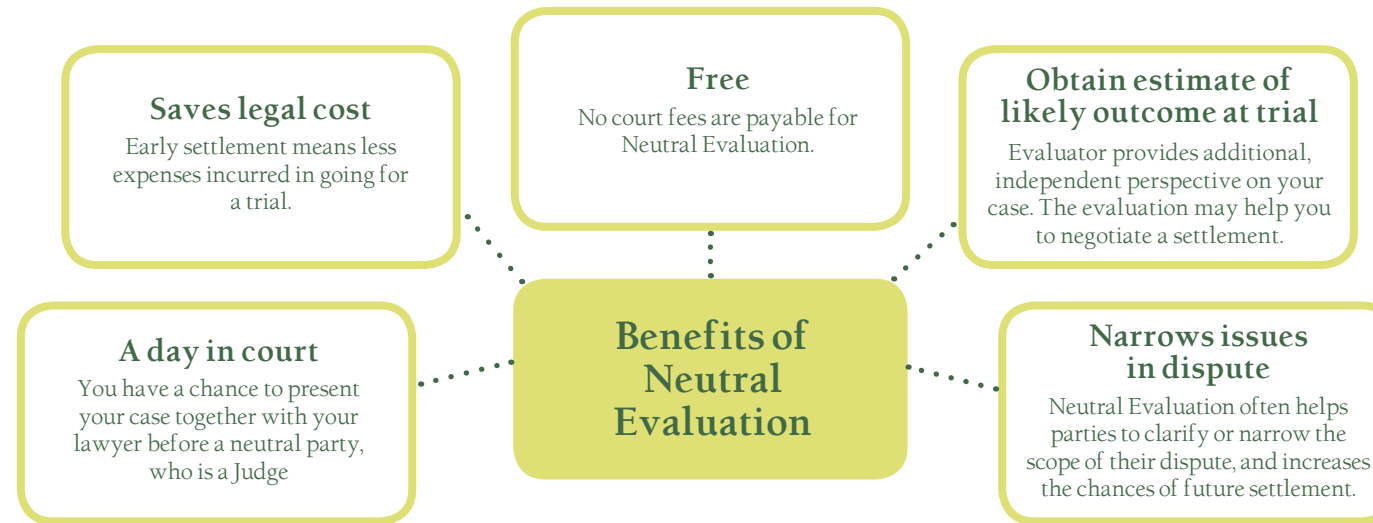
During mediation, a mediator assists the parties in negotiating a mutually acceptable settlement to their dispute. Mediation focuses on finding solutions that meet the concerns of the parties, whereas the focus of a Neutral Evaluation is the assessment of the merits of the case.

Mediators may meet the parties privately to facilitate a settlement. However, private sessions are generally not used in Neutral Evaluation so that no private information that could be used in making the evaluation flows from a party to the evaluator.

Is Neutral Evaluation binding on the parties?

Ultimately, it is the parties who decide whether the evaluation should be binding. The default position is that it would be non-binding. When the parties choose to go through a binding Neutral Evaluation, they have to agree to record a consent judgment or terms of settlement at the end of the Neutral Evaluation to give effect to the evaluation.

What are the benefits of Neutral Evaluation?



How are cases referred for Neutral Evaluation?

A Judge hearing a summons for direction or any pre-trial conference of your case may recommend that your case be referred for Neutral Evaluation. Your case may also be recommended for Neutral Evaluation by a Judge at the PDRC. If both parties agree to refer the case for Neutral Evaluation, the Court will arrange for it.

What types of cases are suitable for Neutral Evaluation?

The following types of cases may particularly benefit from Neutral Evaluation:

- ✎ Cases that involve substantial documentary evidence, e.g. construction-related matters;
- ✎ Cases that involve conflicting expert evidence where it might be costly and time consuming for expert witnesses to testify at length at trial, e.g. medical negligence cases;
- ✎ Cases where parties want a neutral person with expert knowledge of the subject matter to assess the merits of their case; and

- ✎ Cases where both sides believe that they have a strong case and are therefore unwilling to explore settlement. A neutral assessment of the strengths of each case may be useful to break the deadlock.

Where parties are uncertain about whether Neutral Evaluation is suitable, mediation would usually be a better Alternative Dispute Resolution (ADR) option at the start, if all parties are open to exploring settlement. For the avoidance of doubt, assuming parties are unable to settle at mediation, parties are not precluded from opting for Neutral Evaluation after the failed mediation process.

What happens after a case is referred for Neutral Evaluation?

Within 21 days after a case has been referred for Neutral Evaluation, the PDRC will schedule a Preliminary Conference between a Judge and the parties' lawyers. At this conference, the Judge will discuss with the lawyers the following matters:

- ✎ Whether the parties intend for the evaluation to be binding;
- ✎ Whether affidavits of evidence-in-chief would be exchanged;
- ✎ The factual and expert witnesses who will attend the Neutral Evaluation hearing;
- ✎ The dates for the Neutral Evaluation hearing; and
- ✎ Any other matters that will facilitate the quick and economical conduct of the Neutral Evaluation.

Once the Neutral Evaluation hearing date has been fixed by the PDRC, your lawyers must submit a concise written statement setting out your claim and attaching all the key documentary evidence that you intend to rely on at the hearing. This must be done no later than two (2) working days before the hearing.

