

## **Financial Early Neutral Evaluation (FENE) in Minnesota**

**Summary: This leaflet defines the role of FENEs within divorce and custody actions, describes their benefits, and explains the FENE process.**

### **1. Definition of FENE**

- a. Divorcing spouses are required to use a form of Alternative Dispute Resolution (ADR). Types of ADR include mediation, arbitration, and neutral fact finding, among others.
- b. FENE is another form of ADR that can be recommended and ordered by the Court.
- c. FENE's deal only with financial issues, like property, debts, child support, and spousal maintenance.
- d. FENE is a process in which an experienced attorney or accountant (the 'evaluator') will learn the facts of your case and offer an opinion as to what the Court might likely do if the case went to trial.

### **2. Benefits of an FENE**

- a. You and your spouse will hear a knowledgeable, neutral opinion as to your chances of success at a trial.
- b. Your case will be resolved more quickly and fairly.
- c. You can save money, time, heartache, and headaches.
- d. It is paid for by you and your spouse using a sliding fee scale based upon your total income, which can further reduce the cost.

### **3. The FENE Process**

- a. The first meeting with the evaluator typically occurs within 7 days from appointment by the Court and is typically completed within 30 days.
- b. Both parties provide the evaluator with important information about your financial situation.
- c. You may meet with the evaluator one or more times as necessary.
- d. After understanding the case, the evaluator will tell you what the Court might likely do.
  - i. During this process you will have an opportunity to discuss the case and try to reach a settlement.
- e. The recommendations of the evaluator, and any statements of settlement or compromise made in the process, are confidential, and cannot be admitted into Court.
- f. If a full or partial settlement is reached, it will be reduced to writing and forwarded to the Court.
- g. If no settlement is reached, the evaluator will not report the content of the FENE to the Court.
  - i. The evaluator will only inform the Court simply that the case did not settle during the FENE.
  - ii. With written consent of the parties, the evaluator may suggest to the Court that another ADR process, such as mediation, would be helpful to reach settlement.
- h. FENE evaluators may not be called later as witnesses.
  - i. Their recommendations and any statements of settlement or compromise made in the process are confidential, and not communicated to the Court or admitted into court (except as part of an agreed settlement.)

### **4. Note**

- a. If the FENE is unsuccessful, the case will be returned to the judge assigned to your case for scheduling or a pretrial hearing and a trial.
- b. In the meantime, the parties can agree to try another form of ADR such as mediation.