

A Litigator's Second Set of Eyes: Neutral Case Evaluation

Scott J. Silverman, JAMS

Lawyers rarely think twice about asking a trusted colleague to review an important legal document they've written. Someone else will not only catch typos and grammatical errors, but also point out language that might be misconstrued or even problematic conclusions.

If litigators do this for their important documents, why not seek a second opinion on the direction and strategy of their case? Hard-nosed advocacy for a client can put blinders on a litigator's view of a case, leading to unreasonable expectations. This is when an objective view of the strategy and merits of a litigator's case, preferably by a neutral third party, is of utmost importance. There is a lot resting on putting on the best case possible for a client, and not just the one the litigator thinks is right.

Enter the neutral case evaluation. Neutral evaluators are charged with providing objective assessments of the dispute. The evaluation will likely take into consideration the process, law, judge(s), substance of the case, evidentiary issues, and potential juries and verdicts. This is a very effective way to sniff out a lion of a case from a dog of a case.

The benefits of neutral evaluation include:

- An objective opinion on a case that lays the groundwork for a clear-eyed assessment of settlement offers or demands;
- Feedback on presentations to judges and juries to spot issues when they can still be corrected;
- Avoids losing credibility with judges, juries, opposing party if demands are not realistic and based on an objective view of the case

There is no need to interrupt the flow of case preparation – or even a trial if things have gotten that far – to conduct a neutral case evaluation. It can be done at the same time as the litigation or appeal, and provides another tool in the litigator's toolbox for managing the case.

In the end, the neutral case evaluator will point out the good, bad, and, unfortunately, the ugly. Engaging with neutral case evaluation does take time, and requires a financial commitment. Unlike many other aspects of litigation, however, this expenditure



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can reap rewards well beyond initial costs – and often save a case in the process.

JAMS offers litigators the opportunity to have their case evaluated by a neutral third-party adjudicator. These are former judges or respected non-practicing lawyers with years of practical trial and/or appellate experience. Neutral case evaluations present counsel and their clients with another set of eyes and ears, untainted by bluster and posturing to sift through a pending case.

