



# Caroline Vincent

## Neutral Evaluation

### ADR Process Outside the Box

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Neutral Evaluation is a powerful dispute resolution process outside the spectrum of the usual forms of ADR. It allows parties to quickly get to the essential settlement metrics and litigation dynamics that drive settlement valuation and settlement readiness. It allows party decision makers to resolve cases earlier, streamline discovery, and reduce costs and risks.

I served as a neutral evaluator through the now defunct Los Angeles Superior Court ADR program for several years, where I followed the well-designed format in the local court rules (modeled after the program in the United States District Court of California, Northern District.) [Click here for the USDC rules.](#)

Whether used early or later in a dispute, neutral evaluation begins with a conference call between the lawyers (and/or parties) and the neutral evaluator. Process design facilitated by the neutral provides buy in and commitment for both clients and counsel as to an early overall approach to a dispute. Discussed are the primary issues in dispute, the procedural posture of the matter, key information to be exchanged or developed for each side to meaningfully value the case for settlement (or to determine next steps), and the highest available decision maker who is best able to understand, digest and make decisions about the best next steps. The focus is upon what information is currently available or easily developed, in order to mutually understand the basic facts and positions; this step helps guide subsequent process decisions and case development.

The parties exchange statements and documents that focus upon the legal and factual issues, prior settlement discussions, positions and other key information at least 7 days in advance of the hearing; this gives counsel and their clients the opportunity to review the opposition's statement and information before coming to the evaluation session.

At the hearing, the parties and their key principals/decision makers sit together in a joint session before the evaluator who conducts the hearing. The evaluator explains that the parties have the option to convert the evaluator to a mediator after the initial evaluation session, either before, during, or after the neutral provides a written evaluation. The joint session consists of an informal presentation by each side with questions and answers by the parties to each other and/or the evaluator.

The evaluator helps guide discussions in order to help the parties assess the strengths and weaknesses of their respective cases, ranges of damages available and likely to be awarded, and next steps for case development to resolve the matter.

After the joint session the evaluator prepares a brief written non-binding evaluation. I always encourage parties to discuss possible settlement while I am preparing the evaluation, and also explain that I can serve as mediator at any time, and still provide the written evaluation. When presenting the written evaluation, the neutral leads a discussion about suggested next steps for case development and resolution.

When the evaluator serves as mediator, traditional ex parte negotiations occur, and the evaluator/mediator agrees to keep caucus communications confidential per ethical rules applicable to mediators. The entire process is covered by the confidentiality provisions of the applicable evidentiary rules, either by agreement or applicable court rule.

I am available to discuss neutral evaluation or other process options with you and your clients at any time.

Caroline

*This year through 2020, I am honored to serve as Chair of the Small Firm and Sole Practitioner Section of the Los Angeles County Bar Association. Please consider joining LACBA (and our Section which touts networking and a vibrant and informative list serve); [click here](#) for the benefits of becoming a LACBA member.*

*Caroline C. Vincent is an attorney mediator, neutral evaluator and arbitrator with ADR Services, Inc. in Los Angeles and Orange County, who has heard over 2000 disputes in her 25 year ADR career. She specializes in employment, complex torts, probate/elder abuse, insurance, professional liability and business and real estate disputes, including class and mass actions. Caroline is a graduate of the USC Gould School of Law, where she served on Law Review, and is Co-Director of the Employment Mediation Program (Lecturer in Law). She is recognized in Super Lawyers for her expertise in ADR.*