

CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:
CELEBRATING FIVE



This blog is dedicated in the belief that those participating in arbitration empower themselves for success through education. As a 30-year trainer in the arbitration field; the information presented is designed to expand knowledge and skills.

STRIKING THAT EXPERTS BALANCE HOW AM I GOING TO DEFEAT YOUR ARB.

To quote George Constanza ... *'I want details and I want them now !'* And so it is with details relating to Data and Assumptions with Expert Reports in intercompany arbitration. Once again we work (a bit) within the confines of intercompany arbitration in applying fundamental advocacy techniques to your case presentation. What do we mean ? There are no cross-examinations by the parties of the others sides Expert. **Theory differentiation** then becomes very challenging as you try to highlight the nuanced differences between the two Experts conclusions. Obviously, your

best approach (as Applicant) is to file rebuttal Contentions after the Respondent has answered with their Experts narrative as part of their case. What we can assess is **Data and Assumptions** by your Expert; things you can control and (of course) I hope you don't ... as I try to defeat your theory. **Data** support speaks to you ensuring in your Contentions discussion of how the Expert chose and obtained their data; why it is reliable and the computations or tests that were done. But; you have to be balanced ... Experts can fall in love with their own data so strike the balance between offering enough to persuade the

panelist of reliability but not so much that you lose their attention. The take away – ensure how and why the **data** supports your Experts conclusions. To get to an Opinion; almost all Experts use **Assumptions** of one sort or another. I will lay the foundation with the Arbitrator that underlying assumptions that helped get to your Experts Opinion have not been sufficiently explained or outlined in your Contentions. Overall, Opinion Evidence offered through Experts helps advocate your case. Data and Assumptions for your Experts conclusions matter ... my hope is that you overlook and undersell both -

Case Presentation 101 is produced by Claims Resource Services; one of the nations top arbitration and subrogation services firms. The writer Kevin Pike can be reached at kpike@claimsresource.com and has daily tips on arbitration via Twitter: [@Arb2Win](https://twitter.com/Arb2Win)

