

CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:
LOTS AND LOTS
OF CIRCUMSTANTIAL



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.

FACT OR FICTION: WHEN CIRCUMSTANCES DICTATE HOW AM I GOING TO DEFEAT YOUR ARB.

Truth be told this is all **CIRCUMSTANTIAL !!** And there we have a kind of Evidence in intercompany arbitration upon which some or maybe most of your case is based. Evidence that I need to show is not causally connected at best and conjecture at worst. We know that Circumstantial Evidence is that which sheds indirect light on a question of fact. We also know there are two 'rules' I will keep in mind in efforts to discount this Evidence. The first ? The conclusion you are drawing from this 'circumstantial' proof does not establish the fact in question so the Arbiter should disregard your point

or Contention. Example - because our insured quickly ran across the street to seek assistance for the loss that occurred; does not infer they were leaving the scene of the accident to obviate fault. Your assertion they were fleeing and therefore culpable does not establish the fact you are striving for with the Arbitrator. The 'fact' is they returned with people to assist even as police arrived. That second 'rule' I will keep in mind ? That the chain you are trying to establish with your Circumstantial evidence is broken and therefore the overall inference invalid. Example – because our insured had their phone in

their hand when they got out of the car does not meet a Preponderance Standard toward establishing what you are striving for ... that they had been inattentive while driving leading to the accident. It is just as 'reasonable' to infer they got on the phone right after the accident happened. Since there are no Witnesses to them being on the phone during the crash; there is not a 'totality' to this Contention; there is also inconsistency within it and there is definitely doubt. And there we are ... conveying 'uncertainty' to the Arbitrator about your Evidence because well ... the Circumstances dictate ~~

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)

