

# CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:  
THE THEME  
ABOUT THEMES



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.

## WHERE ARE YOU NOW ? YOUR APPROACH; YOUR POSITION

Sometimes in auditing Arbitration cases you come across a scenario or fact pattern ... it almost jumps off the page 'Blog Material'. Let's revisit a topic that is frankly crucial in your efforts to prevail whether Applicant or Respondent. Something you want to consider as you type in that first paragraph of your Contentions. **What is your Role in the case ?**

Am I having to prove on the Prima Facie Burden my theory within the Preponderance of the Evidence standard ? Or am I having to craft an alternate hypothesis using that same standard that deflects the Applicants case ? We know

that Respondents cannot prove the Applicants case; that the Prima Facie Burden rests with the Applicant. Those who go back years in subrogation arbitration will recall how No Responses was a significant issue where challenges existed ensuring every case got Answered. Of course, 'no default decisions' was always in play so the Applicant still had to prove their claim even with no answer from the Respondent. Knowing your role in the case sets your thinking about what you need to accomplish. For example; opting not to include certain Evidence as Respondent on a he said/she said fact pattern may actually

shortchange your argument. Why ? Because while you sense it does not add anything and the case remains driver versus driver with the Applicant never having met their burden; the point is you have not fully supported your own Theory and by the 'weight of the Evidence' the Arbitrator rules in favor of the Applicant. All the while you had Evidence right there to submit ! The Applicants narrative became more persuasive and 'more likely' based on the totality of all Proofs. To get to .... *'Applicant failed to prove'* you must completely support your narrative as a worthy acceptable alternative ~

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](mailto:kpike@claimsresource.com) and has daily tips on arbitration via Twitter: [@Arb2Win](https://twitter.com/Arb2Win)

