

CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:
BE THE MESSAGE AND
THE MESSANGER



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.

A 'MUST' HAVE PERSPECTIVE DID YOU REALLY TELL THE ARBITRATOR THAT ?

Sometimes the realities of actual case presentation offer the best educational opportunities for Arbitration advocates. So it's not so much textbook but practical perspective that assists those striving for their best narratives. Recently saw a case (which I've seen before over the years) where a party states the Arbitrator MUST award 'x' based on reference materials tied to the business side of Arbitration. To be certain; we are not talking about the Rules of Arbitration for the provider administering the case or even the executed Agreements signed mandating the claim dispute to compulsory Arbitration.

Here are three thoughts (in no particular order) ~
1.) Arbitrators are not keen on being told what to do. The autonomy they hold is critical to the process AND to advocates confidence in it.
2.) Painting a fact pattern by subscribing to the view that there is no 'evidence' to prove the loss either way may be taking your narrative a bit too far. It is for the Arbitrator to review the Evidence and make the decision whether any proof does actually sustain a party's theory. Time and again there have been cases where what a party thought was not 'independent' evidence actually was in the

Arbitrator's mind. Couple that with telling them how they "must" rule; it's not a recipe endearing them to your view. 3.) Rarely would you see an advocate tell an Arbitrator at a 'live' in-person hearing that they MUST do something. If you do, you better be 100% certain you are right else the Arbitrator looks at the rest of your case with skepticism. Referencing educational material for how he/she must rule assuming the fact pattern you've painted is accurate coupled with no 'independent' Evidence; you better be on point. Next week we'll offer some varying options ... it might be a 'must' read ~~

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)

