

CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:
THE WITNESS
OF THE WITNESS



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.

THE MEANING BEHIND YOUR MESSAGE IT'S IN THE WAY THAT YOU SAY IT

As we've discussed before in this Blog ... knowing your position in a case is critical to effective Arbitration advocacy. Your narrative (and/or) strategy as a Respondent-only might be substantially different than if you are the Respondent and Counter-Applicant. Your phrasing, your terminology, your assertive tone may all take a different track. Keep in mind the Evidence may not have changed but your end-goal has. Do I just need refute the Applicants theory that it does not meet a threshold OR do I need to diminish their narrative and transition the Arbitrator to my explanation for how the

accident happened toward Recovery. It's a fact but one effective advocates notice as they construct their cases. Ever heard the term ... 'Respondents cannot prove the Applicants case'. This is why knowing your position matters. Our scenario last week where we talked about a party conveying to the Arbitrator they "must" Award in a certain way. Is there a better approach to instilling the same mantra but doing it in a less confrontational manner. Endearing yourself to the Arbiter that coalesces them to the Decision you seek can be just as effective. Instead of stating 'you must' to the Arbitrator ... begin with

'as you know'. Instead of citing and attaching an educational document about how they are required to rule a certain way... encourage 'industry bulletins addressing this topic and mimicking this fact pattern offer there can be no finding if there is a lack of substantial Evidence'. Instead of stating that there is no 'independent evidence'; present ... 'there is insufficient evidence to definitively prove the merits of their version of the loss'. (This tact is particularly effective if you are the Respondent-only). So encourage to the Arbiter through your language and your tone that the Decision IS the right message ~~

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)

