

CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:
ADVOCATES BEING
ACTIONABLE



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 LANGUAGE OF ARBITRATION WHAT DO YOUR WORDS SAY

Let's spend the next few issues of the Arbitration Blog discussing language tied to the case narratives inherent in subrogation arbitration. We know that Arbitrators are taught and skilled in judging cases by reason over emotion. So before we get to the specific wording that Applicants and Respondents use to chronicle their storylines ... let's assess language that Arbitrators are encouraged to use in their Awards. WHY is this important to you? Consider adopting some of the same terminology as you construct your Contentions. Consider it incorporating 'Arbitrator-speak' as you assemble your

Evidence within the narrative. While certainly an Arbitrator wants to make their Award comprehensible to the parties and employ a simple and direct writing style ... the language used can convey confidence to the parties with the Decision. Inserting into the actual wording of the Award language such as 'consistent with' ... 'confirms' or 'corroborates' can relay the Arbitrator's thought process as they evaluated proofs. Using words like 'reliable' and 'credible' can portend their thinking relating to witnesses; demonstrative proofs or documentary evidence. Placing the term 'compelling' in the Award (as it correlates

to Evidence) can impart the strength to which they found a certain exhibit. 'Supports' is another expression that can connect the Evidence to a party's Theory to their Ruling. Specifically, with Reasoned Awards arbitrators are encouraged to convey not only which Evidence was critical to the Decision but 'how' and 'in what way' it was essential. How about terms not to use in an Award? While a fairly subjective list ... let's go with 'appears'; 'probable'; 'apparent' and 'inadmissible'. As for words an advocate can use (beyond those we've mentioned here) ... have those next week. It should be '*compelling*'-

Case Presentation 101 is produced by Claims Resource Services; one of the nation's 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)

