

CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:
BUZZ WORDS



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.

AVERTING THE INACCURATE IT CAN BE YOUR CREDIBILITY TOO

We have known for years that Arbitrators apply Reliability and Credibility quotients to witnesses; whether they be a third-party or your insured. A recent scenario also reminded that it can be the Credibility of the person presenting the narrative that can come into play. In this instance, a party's Contentions were impacted by two of the four common factors that can affect an advocates Credibility ... those being 'corroboration' and 'contradiction by other Evidence'. Specifically, a statement within the body of the Contentions that the adverse party's insured was

unsure where they were on a roadway was inaccurate in that it only told part of the story AND it could not be supported by other Evidence in the case. Lastly, it was contradicted elsewhere in the **same** transcribed statement. Some might view this as 'cherry-picking' pieces of Evidence to include only the parts that bolster a party's position. But if the Arbitrator does their job and reviews the Evidence in its totality and recognizes that an 'issue' in the case that must be decided is ... where on the roadway was this person ... then the adverse party's Credibility with their narrative has been hampered. Part

of this is what we have discussed before; that an advocate need look at the strengths and weaknesses of their own Evidence and attempt to forecast how any 'downside' they might see could be leveraged against them. This is especially true in subrogation arbitration today where Applicants often do not rebut the Respondents answer. So remember your Credibility in the eyes of the Arbitrator may be on the line. Be careful when interpreting and applying Statements ... *'do you see anything in your Evidence that might need corroboration or that is contradicted elsewhere within the same proofs ?'*

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)

