

CASE PRESENTATION 101

THE WEEKLY BLOG FOR THE ARBITRATION ADVOCATE

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NEXT WEEK:
THE TEMPLATES
OF ARBITRATION



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 CERTAINTY OF YOUR CASE EXUDE CONFIDENCE WITH THE ARBITRATOR

Let's close up our series on the language of Contentions writing in subrogation arbitration with a few more 'words' you might reconsider using as you put forth your case. Occasionally, these words will even creep into Witness/insured statements and Experts reports further hampering your efforts with your narrative. Simply ... be aware of these terms and when you see them consider avoiding their use and/or re-characterize the point you are making. Words such as **'likely'**; **'probable'**; **'maybe'** and **'apparently'**. How about **'could have'** and **'possible'**? Language of this nature does not speak to

the certainty of your Theory that you want the Arbitrator to have. In actuality; it can discount the totality of your Evidence! Simply, how credible is what you offer if your Expert in their Report says 'x' was 'likely' the cause of a product malfunction –or– your insured comments in their Statement that 'maybe' they remember looking in the mirror before backing up. The point is to catch these words; they can make a difference and vis-à-vis what the other party presents may cast just enough doubt in the Arbitrator's mind that they rule in favor of the other side. **'Feel'** and **'believe'** are two more to reconsider. While

'felt' is important in terms of what witnesses perceive (saw, felt or heard). Use of the word 'feel' and even 'believe' can take your case in a different direction. Does how your insured 'feel' about the actions of the adverse stand in contrast to what the Evidence shows? Is the insured who says 'I believe' in their statement about what happened bolstered by the actual proofs? Same for the advocate in presenting the case ... how you 'feel' and/or what you 'believe' while helpful with a Theme may not convey certainty! Ultimately, the words you choose matter ... opt for those that show the confidence in your case ~

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)

