# Table of Contents

What a Quality Decision Provides ...............................................................3
Dispute Types ..............................................................................................3
Summary of Dispute ....................................................................................3
Evidence Consideration ...............................................................................3
Evidence Relevance and Credibility ............................................................4
Evidence Evaluation ...................................................................................4
Making a Quality Decision ..........................................................................5
Liability Decision ........................................................................................6
Liability Decision Examples .........................................................................6
Activity – Write Your Liability Decision ....................................................6
Auto Case Example – Contentions ..............................................................7
Auto Case Example – Evidence .................................................................8
Property Case Example ................................................................................9
Damage Disputes and Rule 2-5.................................................................10
Burden of Proof ..........................................................................................11
Evidence Explanation ................................................................................11
Activity – Explain Your Decision ..............................................................12
Quality Decision Example .........................................................................13
A Quality Decision Provides:

- A summary of the ____________ to confirm the arbitrator understood the ____________ in dispute.
- The ____________ of ____________ that caused the loss and/or ____________ to show how the arbitrator reached the ____________ ____________ figure.
- An ____________ of the ____________ evidence item(s) — what it ____________ and/or how it ____________ into the decision.

Dispute Types

As an arbitrator, you must be able to determine the nature of the dispute, including the following dispute types:

- ____________
- ____________
- ____________
- ____________
- ____________

Summary of Dispute

- Identify what is in ____________.
- Disputes can be ____________ and/or ____________.
- Summarize the liability and/or damages theory of ____________ ____________.

Example

**Summary of Dispute:**

This is a liability dispute involving an intersection collision. Alpha contends Beta failed to yield on a red light. Beta contends Alpha failed to yield on a red light. Beta disputes ten days of the 30 day rental as unnecessary.

Evidence Consideration

Review each piece of submitted evidence carefully.
Evidence Relevance and Credibility

- When considering each piece of evidence, consider whether it _________ to the dispute.
- Credibility is the quality of being ______________.
- If evidence is relevant and credible, it _________ the party’s liability and/or damages _________.

If a piece of evidence is credible, explain why. Conversely, if a piece of evidence is not credible, explain why.

Evidence Evaluation (Word versus Word)

When reviewing a witness statement, consider the following factors:

- The opportunity to ______________ the event.
  Was the witness in a position to see the incident when it happened?

- A witness’s ____________.
  If the witness is a family member or other close relation to one of the parties involved, would that always affect the statement?

- ________________ with other evidence.
  Does the witness statement contradict other pieces of evidence?

Evidence Evaluation

\[ R + C = W \]

\[ \underline{\text{__________________________}} + \underline{\text{__________________________}} = \underline{\text{__________________________}} \]
Making a Quality Decision
Before you can explain your decision, you must make your decision:

➢ Consider ______ arguments.

➢ Take the evidence presented to you at __________ __________.

   An arbitrator’s role is to be a neutral “evaluator” of presented arguments and evidence.

➢ Do not do your own __________ __________. Consider only the evidence presented to you by the involved parties.

   In the arbitrator role, you are a neutral “evaluator” of the evidence the parties bring to you. Your role is to weigh all evidence when rendering a decision.

➢ Base your decision on __________ __________.

   You should base it only on the facts presented and supported.

➢ Facts = _________________ + _________________.

   A contention alone is not considered a fact.

Making a Quality Decision

➢ Don’t add ____________ that were not raised by __________ party.

   This could be perceived as advocating for one of the parties.

➢ Don’t ____________ additional evidence should have been _________________.

   Reference only listed evidence and comment on what it contained or what it lacked.

➢ Call __________ __________ if unable to ______ a piece of evidence.

   You’ll need to confirm there isn’t a file compatibility issue.

Your decision should be written clearly, so a new or experienced adjuster can understand it. Simply stating a piece of evidence is helpful or valuable does not provide clarity.
Liability Decision
Once you have made a decision, you must clearly communicate it to the parties.

➢ State the specific _________ of _________ for each party.

Examples

100% Award:

[Image of Liability Decision: Applicant - ALPHA INSURANCE COMPANY proved 100% liability against Respondent 1 - BETA INSURANCE COMPANY based on unsafe lane change and inattention.]

Comparative:

[Image of Liability Decision: Applicant - ALPHA INSURANCE COMPANY proved 70% liability against Respondent 1 - BETA INSURANCE COMPANY based on failure to yield; 30% versus Alpha for inattention.]

No Award:

[Image of Liability Decision: Applicant - ALPHA INSURANCE COMPANY proved 0% liability against Respondent 1 - BETA INSURANCE COMPANY based on Alpha did not prove liability.]

Activity – Write Your Liability Decision

Read the contentions of the Applicant and Respondent in the following Auto case. After reading carefully, write your Liability Decision. Refer to the examples above for guidance.

*If you will hear cases in the Property Forum, please substitute the Property case beginning on Page 9 for this activity.

Alpha proved _____% liability against Beta based on:
Automobile Example

Applicant Contentions:

This is a liability dispute involving a collision at the intersection of Cross Street and Main in Tampa, Florida. Cross Street runs east and west with a lane in each direction. Main runs north and south with a lane in each direction. The intersection is controlled by traffic lights. The accident occurred on October 10 at 10:00 AM.

Respondent Beta Insurance (Driver Luke Goldman) was traveling west on Cross and Applicant Alpha Insurance (Driver Barb Sapphire) was traveling east on Cross (see scene diagram). The traffic light was green for both east and west traffic.

Beta attempted a left turn on a green light into the path of Alpha. Alpha saw Beta start to turn 50 feet from the intersection, and she immediately sounded her horn and swerved to the left (see Alpha’s statement). Despite taking swift evasive action, Alpha was unable to avoid hitting Beta’s passenger side quarter panel. Alpha’s damage was on the right front bumper and right fender (see photos of Alpha and Beta vehicles).

Beta was cited for failure to yield the right-of-way (see police report, Page 1), and Alpha did not receive any citations or contributing factors. An independent witness (David Appleton) was traveling directly behind Beta and said he heard Alpha’s horn and saw Alpha swerve to her left (see witness statement).

Beta Insurance is 100% negligent for failing to yield on a left turn in front of oncoming traffic. Alpha took all possible and reasonable evasive action and is not negligent; therefore, Alpha seeks 100% recovery of its damages of $4,005.

Respondent Contentions:

Respondent Beta Insurance agrees with the description of the accident scene as described by Alpha and confirms its driver was traveling west on Cross Street prior to the collision. Beta also confirms Alpha was traveling east on Cross Street. Beta was in the left turn lane with his left signal on prior to making a turn onto Main Street on a green light.

Beta contends Alpha was speeding and didn’t brake or swerve to try to avoid the collision. Alpha struck Beta on the right rear quarter panel (see Beta’s vehicle damage photos).

Beta asserts because its damage was to the right rear side of the car (see Beta’s vehicle damage photos), Alpha was at least 25% at fault for not taking evasive action by braking or swerving. There is no evidence that Beta is completely responsible or acted negligently toward Alpha. We ask for an appropriate award.
Applicant Evidence:

**Scene Diagram**

**Beta Damage**

**Alpha Damage**

**Police Report Excerpt**

<table>
<thead>
<tr>
<th>SECTION</th>
<th>NAME OF VIOLATOR</th>
<th>FL STATUTE NUMBER</th>
<th>VIOLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>316</td>
<td>Luke Goldman</td>
<td>316.122</td>
<td>Failure to yield the right-of-way</td>
</tr>
</tbody>
</table>

**Alpha Statement Excerpt**

Q. "Please explain how the accident happened, starting with the road you were on."

A. "Well, I was eastbound on Cross Street with a green light. There was a line of cars facing west on Cross Street, stopped waiting to turn left. There was a yellow one in front. **As I got closer, the yellow one turned left on Main right into my path. I swerved and hit my horn but I still caught the far rear passenger side of his car. If he would’ve turned sooner, he might have made it but he just cut it too close. I was only about 50 feet away when he started to turn.**"

**Witness Statement Excerpt (David Appleton)**

Q. "Please describe what you saw the day of the accident, starting with where you were located."

A. "I was on Cross Street facing westbound waiting to turn left. There was one car in front of me, a yellow sports car. The light was green and all of a sudden the yellow car turned left. There was a lady driving a little blue car eastbound and I know she tried to avoid him because I heard her horn and saw her swerve to her left. She clipped the far rear passenger side of the yellow car."

Respondent Evidence:

**Beta Vehicle**

**Alpha Vehicle**
**Property Example**

**Applicant Contentions:**

This incident occurred on or about 2012 in California.

This location is a single-family home that was leased to Beta on the above date. Per the report from Joe’s Plumbing, Inc., a soft clog was discovered in the toilet downstairs, resulting in an overflow into the hallway. The report indicates the overflow had been going on for some time, as the flooring and walls were completely soaked and mold was forming.

The lease agreement between Alpha and Beta defines Beta’s responsibility regarding maintenance. Section 11 of the lease agreement states Beta shall properly use, operate, and safeguard the premises, including plumbing fixtures. It further states that Beta is to immediately notify Alpha in writing of any problem, malfunction, or damage. Section 11 also states Beta will be charged for all damage to the premises resulting from failure to timely report a problem.

Beta is the sole cause of this incident and the loss incurred by Alpha. As such, Alpha seeks the panel’s assistance in obtaining full indemnification from negligent Beta.

**Respondent Contentions:**

Alpha referenced the lease quoting Section 11, which states in part the tenant shall properly use, operate, and safeguard the premises, including plumbing fixtures and that the tenant must immediately notify the owner in writing of any problem, malfunction, or damage.

Beta was out of town for approximately one month during which time the loss occurred. Upon discovering the water, she immediately took action to mitigate the damages and stop the leak.

According to Alpha’s contentions, the plumber who responded to the call for this water leak stated the cause was a soft clog discovered in the downstairs toilet that created water overflow. According to the Alpha insured, the plumbing company “did repair the pipe in the wall.”

One plumbing company is indicating a soft clog, while another repaired a pipe inside the wall. Beta has yet to be advised of the actual cause of this loss, and therefore, maintains without a confirmed cause and proof of negligence, Beta cannot be liable for reimbursing Alpha for damages. The preponderance of evidence does not support fault.

Negligence occurs when a duty owed is breached. A breach of duty occurs when someone fails to use reasonable care. In this case, there is no way the Beta insured could have reasonably foreseen that a pipe leak or an unused toilet would leak. Beta asks that the panelist deny any award to Alpha.
Damage Disputes and Rule 2-5

You may encounter damage disputes involving rental, towing, or storage. Rule 2-5 specifies how damages must be disputed by a responding company for arbitration consideration:

2-5 If a responding company disputes damages, it must present all damages arguments and disputed dollar amounts, if known, in the Dispute Damages section. Arguments raised in any other section will not be considered by the arbitrator. This includes, but is not limited to, issues such as repair and/or rental amounts, causation, and partial exclusions.

Please note the “if known” language in the second line of the rule. A responder may not know the damages in advance of the arbitration, for example, if an estimate or repair bill was not received. In this instance, the arbitrator should still consider a damage challenge made by the responder in the damages area even though the responder does not possess the information to provide “disputed dollar amounts” in the Dispute Damages section.

Examples
Burden of Proof

- In arbitration, the burden of proof is a ______________ of the ______________.

Evidence Explanation

Aim for a concise explanation. A concise explanation:

- Conveys much in ___________ words and is ______________ in scope.

Evidence Explanation

- State the ______________ item(s) used and what it __________ or didn’t __________.

  The more detailed you are when writing your evidence analysis, the less likely it is that the parties will become confused.

- Include _____________ about the evidence.
  - Avoid ________ statements.
  - Members love ______ from evidence!

Example

<table>
<thead>
<tr>
<th>What evidence caused you to render this decision and why?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beta admitted their driver ran a red light. Beta’s photos showed severe damage to their left fender which fits with Alpha speeding. In his statement, Alpha said he was going 40 mph and admitted he was late for work: “I guess I was running a little late.” In his narrative, the officer noted Alpha’s speed limit of 30 and opined Alpha’s speed was a contributing factor in the crash.</td>
</tr>
</tbody>
</table>
Evidence Explanation
Ensure your explanation includes specific details from the evidence. Simply listing the evidence items or stating they were reviewed will not suffice.

<table>
<thead>
<tr>
<th>Unclear</th>
<th>Clear</th>
</tr>
</thead>
<tbody>
<tr>
<td>The police report, witness statement, damage photos were helpful in rendering this decision.</td>
<td>The police report narrative included Alpha’s comment that she did not see the Beta vehicle before the crash. The witness said...</td>
</tr>
</tbody>
</table>

Avoid ____________ and negativity; remain neutral.
Use correct ________________ and ________________.
_______________ your decision.

Composing a Quality Decision
Writing your decision is as important as rendering it. Write your decision in a professional manner. Consider the following:

- Avoid ____________ and negativity; remain neutral.
- Use correct ________________ and ________________.
- _________________ your decision.

Evidence Explanation Example – Activity
A. Review the contentions you read previously. Provide an explanation of the influential evidence item(s), what it contained, and/or how it factored into the decision.

B. Review the following Evidence Explanation and provide detailed feedback regarding quality below. What was done well in this explanation? What could be improved? Explain your answer.

*Refer to Evidence Explanation material to complete this activity.

---

What evidence caused you to render this decision and why?

All evidence was reviewed and considered. The police report narrative included Beta’s admission of the improper turn and the officer’s decision to cite Beta for same. Damage photos were compelling. Per Alpha’s statement, she “...swerved and hit my horn...” but could not avoid. The witness confirmed Alpha’s version. Beta should try supporting their contentions; speed was argued but not linked to any evidence.

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Quality Decision Examples

Let’s look at two versions of a decision and compare the quality, keeping in mind that a quality decision provides:

**An explanation of the influential evidence item(s) — what it contained and/or how it factored into the decision.**

**Version #1:**

The police report and driver statements confirmed Beta’s improper turn and Alpha’s inattention.

**Version #2**

The police report narrative included Beta’s admission that he attempt to turn right from the left lane, it also noted Beta’s citation for improper turn. In his statement, Alpha said he did not notice Beta until “...just before we hit...” The witness, traveling directly behind Beta, said Beta was slowing and he signaled his turn about two seconds before he attempted it. With proper attention, Alpha may have been able to take evasive action.

The first version lacks critical detail for the reader to fully understand the decision. It doesn’t specify what the police report or statements contained and how the content of those evidence items influenced the decision.

The second example is much better. It includes detail about Beta’s admission to the officer and the officer’s decision to cite Beta for improper turn. It also specifies key content from the witness statement (the witness’s position or ability to observe the accident and when the witness noticed Beta activate a turn signal). The effect of key content from the witness statement was explained; that is, that better lookout may have allowed time for evasive action. Also, notice the quoted
material used! Our membership appreciates quoted material properly placed in an explanation because it shows you analyzed the evidence carefully.

Remember, parties in arbitration see a list of evidence for other parties, but cannot actually view it in the Online Filing System (OLF). This is why explaining the content of evidence is so important! Your decision may be based on a piece of evidence only one party possesses.