



Appeals+ The Right Addition to Your Trial Team

[Be Careful What You Wish For](#)

Posted on December 22, 2009 by [D. Todd Smith](#)

Regular followers of this blog know that [I'm a fan of oral argument](#). The challenge of synthesizing facts and law into a concise, well written brief is one thing—some say [the main thing](#)—but there's nothing quite like standing before a row of appellate judges and defending the positions you're taking on your client's behalf.

So, as always, I was pleased to receive notice that one of my cases had been set for argument in early 2010. We completed briefing a year ago, and the client was glad to learn that the matter is finally progressing through the system.

Then something strange happened. I received notice that argument had been scheduled in another one of my cases for the same day. In the second matter, briefing had been completed for only a couple of weeks.

It could be worse. The cases are in the same court, so I don't have to finish one argument, travel to another city, and appear for the other. I'll have a little time in between. Still, this situation begs a larger question: Shouldn't the appellate courts have a system in place to help avoid such scheduling mishaps?

I didn't even consider trying to move one matter to a different date. The first client had waited a year to receive news of any kind. And, given the slow pace in which the appellate process moves, it simply wasn't in the other client's best interest to try and reschedule. Fortunately, I found out far enough in advance that I can adequately prepare for both cases.

This is the second time in my career I've had two arguments set for the same day, and I'm not alone. I know of a fairly recent instance in which a lawyer argued two cases to the Texas Supreme Court the same morning, and another in which a different court of appeals scheduled an advocate for three successive arguments.

As I said, it could be worse.