

Appeals *

by Kim Tung

Abstract

While appeals represent less than 1% of total attorney time spent in litigation, they represent a significant drain on court resources and cause many delays and back logs. As a result, several methods of streamlining the appeals process have been suggested and studied.

Oral arguments are one target for reform. Most experts agree that they have little impact on the outcome of appeals, and are often not used effectively. Whether they are eliminated or limited in some fashion, reform of oral arguments will save both court and litigant time and expenses.

Another proposed reform is limiting page counts for appellate briefs. Studies in simple cases have found saved time and attorney fees, while preserving the perception by attorneys that they received fair hearings. No results are reported for larger, more complicated cases.

A final proposal is to modify or expand the use of settlement conferences. Settlement conferences at the appellate level are somewhat simpler than at the trial level because the underlying facts of each case have already been determined. Experiments in California and Missouri both boasted approximately 40% settlement rates and significant savings of court resources. However one participating judge warned that the courts, while fostering settlement, should avoid becoming "houses of alternative dispute resolution."

* This paper is one in a series of six papers in this volume on issues relating to reducing litigation costs. The other papers are: *What are the Costs of Litigation?*, *Discovery Reform*, *Alternative Dispute Resolution*, *Alternative Dispute Resolution*, and *Using New Technologies*.