

# A Strategic Look at Post-Submission Briefs



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How often do they affect  
disposition of a case?

## Judicial Survey 2015

Rarely:	65%
Sometimes:	33%
Never:	2%



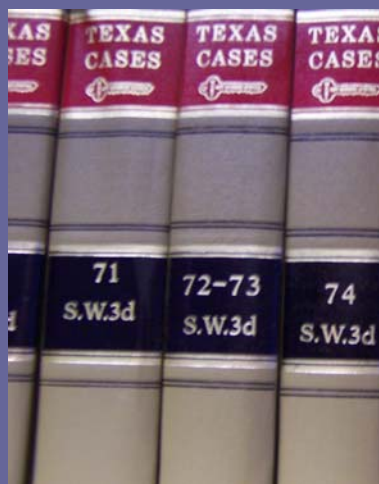
Start Early

## Before Submission

Identify incomplete arguments  
and responses:

- Incorporate critical omissions into argument
- Use oral argument exhibits as a substitute for a post-submission brief

## Before Submission



Address new authority in a pre-submission filing if it is:

- Compelling or persuasive
- Noncumulative
- Substantive

## Before Submission

Take steps to preserve the argument:

- Check to see if audio/video available from court
- Have someone attend argument to transcribe questions



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26<sup>th</sup> Annual Conference on State and Federal Appeals session  
"Post-Submission Briefs"