

## DON'T INCORPORATE YOUR TRIAL COURT BRIEFS ON APPEAL

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In a memorandum decision, uncitable as authority under App. R. 65(D), the Indiana Court of Appeals has provided us with another episode in our series entitled "Appellate Lawyers Behaving Badly" in *Shonk Electric, Inc. v. Siemens Medical Solutions USA, Inc.*, Cause No. 55A05-1009-CC-554. In this case, the Court found that the appellant had waived arguments because it "provide[d] no cogent argument or citation to authority," criticized the appellant for relying on a dissenting opinion as authority, and rejected the appellant's attempt to incorporate an argument made in the trial court by reference. In its conclusion, the Court awarded appellate attorney's fees to the appellee.

### Lesson:

1. Make all necessary arguments on appeal; do not merely incorporate an argument by reference.