

# The Appellate Strategist

INSIGHTS ON APPELLATE ISSUES, TRIAL CONSULTATIONS, AND EVALUATING APPEALS

## [Orders Compelling Compliance with a Legislative Subpoena Are Appealable in California](#)

December 13, 2010 by [Michael Walsh](#)

While avoiding the marijuana legalization debates raging in the state, the California Supreme Court confirmed that orders compelling five medical marijuana dispensaries to comply with subpoenas issued by the City of Dana Point were appealable, reversing the dismissal by the Court of Appeal in these consolidated cases. In *Dana Point Safe Harbor Collective v. Superior Court*, [S180365](#), the Court held that the order enforcing the legislative subpoena and compelling the production of documents was a final order for purposes of an appeal, returning the matter to the Fourth Appellate District, Division Three, of the Court of Appeal for further proceedings. In doing so, the Supreme Court specifically declined to address the ancillary issue of whether an appealing party is entitled to a stay of enforcement of the subpoena pending appeal. Having resolved a split in the Courts of Appeal, the Supreme Court disapproved *Bishop v. Merging Capital, Inc.* (1996) 49 Cal.App.4th 180, *People ex rel. Franchise Tax Bd. v. Superior Court* (1985) 164 Cal.App.3d 526, and *Barnes v. Molino* (1980) 103 Cal.App.3d 46, to the extent they are inconsistent with its holding. For more details regarding *Dana Point Safe Harbor Collective*, see the [Appeals & Writs update page](#).