Greetings!

Another byte of law for your interest.

We know that one of the standards used by the Court of Appeal to determine if a trial judge has made an error is if the judge "abused his/her discretion." This, traditionally, implies that the judge actually made a ruling in which the judge made a decision which no reasonable judge would have made. But

What if the judge fails to make a decision? Can this ever be an abuse of discretion if there was no discretion exercised? The answer is "yes." In California it is clear that if a judge fails to exercise its discretion it is an abuse of discretion and that abuse is appealable. *In re Marriage of Gray* (2007)155 Cal.App.4th 504, -- Cal.Rptr.3d -, *People v. Orabuena* (2004) 116 Cal.App.4th 84, 99; *Dickson, Carlson & Campillo v. Pole* (2000) 83 Cal.App.4th 436, 449, 99 Cal.Rptr.2d 678, *Serrano v. Stefan Merli Plastering Co., Inc.* (2008)162 Cal.App.4th 1014, 1039, -- Cal.Rptr.3d -, *In re Marriage of Tharp* (2010) 188 CA4th 1295, 1312, *Fletcher v. Superior Court* (2002) 100 Cal.App.4th 386, 392.