

# Certified Court Reporters Maintain Independent Contractor Status Per App. Div. Decision

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[Andrew S. Berns](#), chair of the employment and commercial litigation practice at Einhorn, Barbarito, Frost & Botwinick, PC, and [Matheu D. Nunn](#), chair of the firm's appellate and family law practices, scored a precedential reversal as *Amicus Curiae* for their clients, Certified Court Reporters Association of New Jersey. The case is *State Shorthand Reporting Services Inc. v. New Jersey Department of Labor and Workforce Development* and *Jersey Shore Reporting LLC v. New Jersey Department of Labor and Workforce Development*, case numbers A-1500-21 A-1710-21, and the Appellate Division's decision can be read [here](#).

"The Certified Court Reporters Association is thrilled and feels vindicated that the New Jersey Appellate Division agreed with its position that the majority of all N.J. Certified Court Reporters shall maintain their classification status as independent contractors," noted Berns.

Berns added, "In this decision, the Appellate Division of the Superior Court of New Jersey unequivocally establishes and affirms the position espoused by the Certified Court Reporters Association for many years that N.J.S. A. 43:21-19 (i) (10) provides an exception for court reporters who are to be treated and categorized from the effective date of the statute, January 16, 2010 forward as independent contractors. As such, the App. Div. dispensed with any requirement that 43:21-19 (i) (10) requires a Federal Unemployment Tax Act ("FUTA") exemption to categorize court reporters as independent contractors. In my estimation, The New Jersey Department of Labor is likely to seek Certification of the issue to the New Jersey Supreme Court."

The issue in the case was whether N.J.S.A. 43:21-19(i)(10)—from the time of its enactment in 2010—provides an exemption for court reporters under the Unemployment Compensation Law ("UCL"), N.J.S.A. 43:21-1 to -71, or whether court reporters must still establish a Federal Unemployment Tax Act ("FUTA") exemption pursuant to N.J.S.A. 43:21-19(i)(1)(G).

The Commissioner of the Department of Labor and Workforce Development concluded that court reporting agencies had to establish a FUTA exemption, and, in the absence of that exemption, court reporting agencies were “employers” subject to the UCL.

The court reporters (both as individual parties and as *Amicus Curiae*) successfully argued on appeal that the plain statutory language, as well as the legislative history of the UCL, particularly with respect to the FUTA exemption, compelled a conclusion that court reporting agencies were exempt from the UCL. As a result of the win, for all time periods subsequent to January 2010, court reporters continue to be recognized as independent contractors, free to work when/where/how they choose. In addition, the decision ensures that attorneys will continue to have a wide array of reporting agencies and Certified Reporters from which to choose.

[Read Andrew S. Berns' blog post "Court Reporters Achieve Victory in Battle Against the NJDOL: An Analysis of the Jersey Shore Reporting Case and Key Takeaways from the Appellate Division's Decision"](#)

**To read media coverage about this decision, please visit:**

[CityBiz](#), “Certified Court Reporters Maintain Independent Contractor Status Per App. Div. Decision,” February 12, 2024

[New Jersey Law Journal](#), “Appellate Division Upholds Legislative Exemption for Court Reporters Under Unemployment Compensation Law,” February 14, 2024. (Subscription may be required.)

[Law360](#), “Court Reporters Deemed Exempt Contractors In Benefits Case,” February 12, 2024. (Subscription may be required.)