

Nunn and Mills Secure Appellate Stay and Remand Following a Rare Issuance of Summary Judgment in Family Part Case

On November 28, 2023, Einhorn Barbarito attorneys [Matheu D. Nunn](#) and [Jessie M. Mills](#) obtained a reversal of a Burlington County trial court order that granted summary judgment to the defendant-father. The case involved a dispute over a child's school enrollment, specifically whether the child should be enrolled in school in Delaware or New Jersey, as well as modifications to custody and parent of primary residence.

After a trial court judge ordered discovery and a hearing in June 2022, a newly assigned trial court judge granted summary judgment to the father and ordered that the child attend school in New Jersey. Nunn filed a motion for leave to appeal and for a stay, both of which the Appellate Division granted. Nunn argued the matter on October 31, 2023.

On November 28, 2023, the Appellate Division held: "we are satisfied the newly assigned judge abused his discretion in declining to conduct a plenary hearing consistent with the June 15, 2022 order. The newly assigned judge should have proceeded with a plenary hearing and conducted an analysis under N.J.S.A. 9:2-4 to determine the child's best interests related to the issues memorialized in the June 15, 2022 order." Accordingly, the matter was reversed and remanded for a plenary hearing.

The Opinion can be found here: <https://www.njcourts.gov/system/files/court-opinions/2023/a3051-22.pdf>



Matheu D. Nunn



Jessie M. Mills