



**State Shorthand Reporting Services,
Petitioner,**

**STATE OF NEW JERSEY
DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT**

v.

**New Jersey Department of Labor and
Workforce Development,
Respondent.**

REQUEST FOR STAY

**OAL DKT. NO LID 03693-2014
AGENCY DKT. NO. DOL 14-001**

Issued: January 19, 2022

State Shorthand Reporting Services (State Shorthand or petitioner) seeks a stay of my December 31, 2021 final administrative determination pending the appeal of that determination to the Superior Court, Appellate Division. Within the December 31, 2021 determination, I found that petitioner had failed to establish that the court reporters whose services it had engaged during the periods from 2006 through 2008 and 2011 through 2014 (the audit period) were exempt from coverage under the New Jersey Unemployment Compensation Law, N.J.S.A. 43:21-1 et seq., either pursuant to N.J.S.A. 43:21-19(i)(10) or as independent contractors under N.J.S.A. 43:21-19(i)(6)(A), (B) and (C), commonly referred to as “the ABC test.” Consequently, I ordered with regard to all court reporters engaged by State Shorthand during the audit period, that petitioner immediately remit to the Department of Labor and Workforce Development (the Department) \$104,116.45 in unpaid contributions to the State Unemployment Compensation and State Disability Benefits funds, along with applicable interest and penalties. Following is the entirety of petitioner’s asserted basis for its request for stay:

The basis for this ‘stay’ can be found in the Hon. Sarah G. Crowley’s decision where she concluded that the court reports were correctly designated as independent contractors and that Petitioner did not owe any payments in unpaid unemployment and temporary disability contributions

As you are aware, this matter has been continuing since 2009 regarding an audit of years 2006-2008. Since the first audit in 2009, there have been numerous ‘stays’ of the proceedings, including but not limited to a two-year ‘stay’ of the proceedings due to the pandemic. Clearly, in balancing the equities including factors of irreparable harm, existence of a meritorious issue and the likelihood of success, State Shorthand should be granted a ‘stay’ to pay the remittance.

Judge Crowley’s decision in favor of State Shorthand shows there is a meritorious issue and a likelihood of success. There is no harm to the Department of Labor and there would be irreparable harm to State Shorthand.

(citation omitted)

Petitioner has failed to establish a legitimate basis for staying the December 31, 2021 order. That is, petitioner’s assertion that it believes it will prevail on appeal because it received a favorable initial decision from the Administrative Law Judge does not suffice to establish a likelihood of success on the merits of the appeal. Equally unpersuasive is petitioner’s unsupported assertion that it will suffer irreparable harm if it is not granted the stay. Finally, regarding the public interest, petitioner makes no argument.

ORDER

Therefore, I hereby order that petitioner’s request for a stay of the December 31, 2021 order is denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY
THE COMMISSIONER, DEPARTMENT
OF LABOR AND WORKFORCE DEVELOPMENT



Robert Asaro-Angelo, Commissioner
Department of Labor and Workforce Development

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