

**FAQ Regarding Assignments from Firms
That Have Agreements with Insurance Companies**

Q: May a court reporter accept assignments from a court reporting firm that has an agreement with an insurance company to provide court reporting services in a lawsuit in which the insurance company has not been named as a party?

A: Yes, because this question explicitly states that the insurance company is *not a party litigant* in the lawsuit.

The key consideration for court reporters under Code of Civil Procedure article 1434 (see below, emphasis added) is whether a party litigant has a prohibited contractual relationship with the court reporter (either directly or indirectly, such as through a court reporting firm):

Art. 1434. Person before whom deposition taken

A. (1) A deposition shall be taken before an officer authorized to administer oaths, who is **not an employee** or attorney of any of the parties or otherwise interested in the outcome of the case.

(2) For purposes of this Article, an employee includes **a person who has a contractual relationship with a party litigant** to provide shorthand reporting or other court reporting services and also includes **a person employed part or full time under contract or otherwise by a person who has a contractual relationship with a party litigant** to provide shorthand reporting or other court reporting services. A party litigant does not include federal, state, or local governments, and the subdivisions thereof, or parties in proper person.

B. "Officer" as used in this Article means a certified shorthand or general reporter currently holding a valid certificate issued by the Board of Examiners of Certified Shorthand Reporters pursuant to the provisions of R.S. 37:2551 et seq., and an official court reporter, and a deputy official court reporter, as defined in R.S. 37:2555(B)(1) and (2).

If an insurance company is not a party in the lawsuit, then the reporter may accept the assignment from a court reporting firm.

In Louisiana, a Direct Action Statute (R.S. 22:1269) allows a plaintiff to proceed directly against both an insurance company and its insured. If the insurance company has been sued, a court reporter may not receive an assignment from a court reporting firm that has an agreement with the insurance company to provide court reporting services in the lawsuit; the insurance company is then a "party litigant" in the lawsuit, which creates a prohibited contractual relationship under Article 1434.

Before accepting an assignment, therefore, each court reporter must determine whether the assignment comes from a court reporting firm that has a prohibited contractual relationship with an insurance company named as a party in the lawsuit. To assist court reporters, Louisiana law

provides a “safe harbor” procedure by which court reporters can determine whether or not the court reporting firm has a prohibited contractual relationship with a party litigant. *See* R.S. 37:2557(D) and CSR Rule 1303(B). Court reporters can request certification from a “court reporting firm that the firm has no prohibited contractual relationship, direct or indirect, under Code of Civil Procedure article 1434 with a party litigant in the matter for which the reporter was retained to provide services.” A court reporter who obtains and promptly files such a certification with the CSR Board will not be considered an “employee” and will not be in violation of Code of Civil Procedure art. 1434. If a reporter requests a safe harbor certification and the court reporting firm refuses or fails to provide the requested certification, the court reporter must immediately notify the CSR Board in writing. More information about the safe harbor procedure can be found on the CSR Board website via the link to “New Rules and Forms Effective on July 1, 2016.”