

# STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION  
Docket No. 107-9-15 Vtec

ANR v Christopher E. Denio, LLC et al
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## ENTRY REGARDING MOTION

Counts 1 through 4: ANR Enforcement of its Administrative Order (107-9-15 Vtec)

Title: Motion to Amend/Alter Judgment Order (Motion 7)

Filer: Agency of Natural Resources

Attorney: Randy Joe Miller

Filed Date: September 16, 2019

No response filed

**The motion is GRANTED.**

On August 7, 2019, this Court conducted a hearing on the Petition by the State of Vermont Agency of Natural Resources ("Agency") for an order to Show Cause as to why Christopher E. Denio, LLC East Mountain Mobile Home Park, LLC, Christopher E. Denio, and Dawn Denio (hereinafter collectively "the Respondents") should not be sanctioned for contempt of this Court's June 7, 2016 Judgment Order. The Agency appeared at the August 7, 2019 hearing, though counsel, and presented witness testimony and other evidence in support of its sanction request. That evidence included that all Respondents were duly and legally served, both with the underlying Notices of Alleged Violations and the Notice for the 2019 contempt hearing. None of the Respondents chose to appear or offer evidence at the August 7, 2019 contempt hearing.

At the conclusion of the evidence portion of the contempt hearing, the Court presented its conclusions that the Respondents were in contempt of the 2016 Judgment Order and that, as a sanction for such contempt, each of the Respondents shall be jointly and severally liable for the total sums presented on behalf of the Agency. The Court directed that the Agency's counsel prepare a draft Contempt Order and present it for the undersigned's review, approval, and signature. The Court directed that the Contempt Order include an award of a \$100.00 per week penalty since the issuance of the 2016 Judgement Order, together with reimbursement of the Agency's attorneys' fees, staff costs, and other expenses incurred as a result of the Respondents' contempt. Those fees and reimbursements totaled \$17,051.20. The Court also awarded injunctive relief, requiring Respondents to comply with the various directives contained in the

2016 Judgement Order to satisfy various permitting and compliance requirements by a revised purge date of September 30, 2019.


On August 27, 2019, The Court received the draft Contempt Order prepared by the Agency's counsel, reviewed the same, and signed and issued that draft as its final Order. Unfortunately, through either an error contained in that original draft, or a typographical revision incorrectly entered by the undersigned, the August 27, 2019 Contempt Order limited the monetary award to \$1,051.20. It is obvious that the August 27, 2019 Contempt Order incorrectly omitted the additional \$16,000.00 award that the Court directed on the record of the August 7, 2019 hearing.

For all these reasons, the Court **GRANTS** the pending motion and does contemporaneously with this Entry Order issues a Revised Contempt Order. The Revised Contempt Order incorporates a total award of \$17,051.20, as the Court directed at the August 7, 2019 hearing.

The Revised Contempt Order contains two further revisions. First, the Order revises the deadline by which Respondents may purge their contempt and come into compliance with the original Judgment Order to **December 16, 2019**. Second, the Court directs that, if Respondents fail to comply and the Agency seeks further sanctions in this matter, the Agency should consider requesting a day warrant to assure that one or more of the Respondents appear at any future contempt hearing. The Court discussed this option, together with further sanctions, including an order directing the ceasing of operations at Respondents' mobile home park, as a means by which to encourage Respondents to address the serious health risks that continue to exist at that facility.

**So Ordered.**

Electronically signed on November 07, 2019 at Burlington, Vermont, pursuant to V.R.E.F. 7(d).

A handwritten signature in black ink, appearing to read "Thomas S. Durkin", written over a horizontal line.

Thomas S. Durkin, Superior Judge  
Environmental Division

Notifications:

Randy Joe Miller (ERN 7037), Attorney for Petitioner Agency of Natural Resources  
Respondents Christopher E. Denio, LLC, East Mtn Mobile Home Park, LLC, Christopher Denio,  
and Dawn Denio