

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION  
Docket No. 22-2-16 Vtec

ANR v Branon and Branon, Trustees

**ENTRY REGARDING MOTION**

Count 1, ANR Enforcement of an Administrative Order (22-2-16 Vtec)

Title: Motion to Appoint Guardian Ad Litem (Motion 2)  
Filer: Charles D. Hickey, in his capacity as attorney for Paul Branon  
Attorney: Charles D. Hickey, Esq.  
Filed Date: May 16, 2016

Response filed on 05/18/2016 by Attorney Evan P. Meenan for Petitioner Agency of Natural Resources

**The motion is GRANTED.**

Respondent Paul Branon is 79 years of age and one of the two named trustee holders of title to the Lake Memphremagog property that is the subject of the ANR Administrative Order that is the subject of this enforcement action. Mr. Branon's Vermont attorney reports that Mr. Branon is in extremely poor health, diagnosed with an aggressive form of lung cancer and suffering from dementia. Mr. Branon is currently being treated by specialists affiliated with Harvard Medical School and the Mass General Cancer Center. Mr. Branon's personal physician reports that, due to his "significant dementia," Mr. Branon "is not able to participate meaningfully in his own defense, nor is he able to understand the legal issues and procedures which confront him." Corresp. from Dr. Edwin Knights, MD, dated April 26, 2016.

Dr. Jon S. Du Bois also reports that, due to Mr. Branon's "current medical condition, I do not feel it is advisable for him to travel out of town or be away from the comfort of his house" in Acton, Massachusetts.

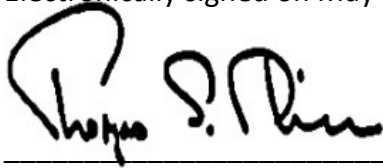
For all these reasons, Attorney Hickey has requested that a guardian ad litem be appointed for Mr. Branon and specifically recommends that the Court appoint Kenneth Kalinowski, who is Mr. Branon's son-in-law and is thoroughly familiar with the facts of this enforcement action.

Based upon these representations, the Court concludes that Mr. Branon is an “incompetent person” under V.R.C.P. 17(b) and does hereby appoint Kenneth Kalinowski to serve as the Guardian Ad Litem to represent Mr. Branon and his interests in this matter. The Court concludes that the facts presented provide a sufficient foundation to make these findings on the issue of Mr. Branon’s competency. See In re Judicial Review of S.A., 155 Vt. 112, 116-17 (1990).

To the extent that the trust documents do not provide for Mr. Branon’s continued service as a co-trustee for the overseeing of this property, we direct Mr. Branon’s legal counsel and GAL to advise the Court on any substitute trustee appointment.

**So ordered.**

Electronically signed on May 24, 2016 at Montpelier, 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, Judge  
Environmental Division

Notifications:

Evan P. Meenan (ERN 1632), Attorney for Petitioner Agency of Natural Resources  
Charles D. Hickey (ERN 3831), Attorney for Respondents Paul and Mary Branon