



*State of New Jersey*  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW  
25 MARKET STREET  
PO Box 112  
TRENTON, NJ 08625-0112

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

GURBIR S. GREWAL  
*Attorney General*

MICHELLE L. MILLER  
*Director*

April 30, 2021

**Via Electronic Mail & JEDS System**

Honorable Robert Lougy, J.S.C.  
Mercer County Civil Courthouse  
175 South Broad Street, 3rd Floor  
Trenton, NJ 08650

Re: Persichilli v. Atilis Gym of Bellmawr  
Docket No.: MER-C-48-20

Supplemental Letter in further Support of  
Plaintiff's Motion for Entry of Judgment

Dear Judge Lougy:

This office represents Plaintiff Judith M. Persichilli, R.N., B.S.N., M.A., in her official capacity as Commissioner of the New Jersey Department of Health, in this matter. Please accept this supplemental letter in further support of Plaintiff's Motion for entry of Judgment and in response to Defendant's untimely opposition to same.

Plaintiff does not request any additional time to reply to Defendant's opposition, as Defendant's opposition is both grossly untimely and wholly without merit.



April 30, 2021

Page 2

Plaintiff's motion was filed and served on December 10, 2020, and the court initially sent a return date of January 8, 2021. On January 4, 2021, Plaintiff filed a brief reply, noting no opposition was filed. At Defendant's request, the motion was adjourned to April 1, 2021. At Defendant's subsequent request, the motion was again adjourned to April 30, 2021. The court sua sponte adjourned the motion to May 3, 2021.

On the afternoon of April 30, 2021, Defendant for the first time filed and served opposition to Plaintiff's motion. Initially, Defendant's opposition is grossly untimely. Pursuant to Rule 1:6-3, opposition was initially due by January 4, 2021. Even granting Defendant the widest latitude possible, opposition for the upcoming May 3, 2021 return date was due on April 26, 2021. R. 1:6-3(a); R. 1:3-1. Defendant's opposition is also fundamentally flawed substantively.

The sole contention in Defendant's opposition is to challenge the validity of the underlying gubernatorial Executive Orders and Departmental Administrative Orders which this court enforced. However, this issue has been repeatedly argued in this matter and repeatedly rejected by the court. As previously briefed and as this court found, "the validity of an agency order shall not be justiciable in an enforcement proceeding." R. 4:67-6(c)(3); see also In re Valley Rd. Sewerage Co., 295 N.J. Super. 278, 290

April 30, 2021

Page 3

(App. Div. 1996) (noting "the exclusive jurisdiction" of the Appellate Division to review the merits of state agency determinations pursuant to R. 2:2-3(a)(2)); Bacon v. N.J. State Dep't of Educ., 443 N.J. Super. 24, 37 (App. Div. 2015) (trial court's powers in Rule 4:67-6 proceedings are "strictly limited to enforcement of an order"); State Dep't of Env'tl. Prot. v. Mazza & Sons, Inc., 406 N.J. Super. 13, 23 (App. Div. 2009) (the defendant in an enforcement action may not collaterally attack the merits of the administrative order before the trial court).

This issue has been well-settled in this case, and Defendant has neither sought interlocutory review nor reconsideration on that issue. Accordingly, Defendant's opposition is of no weight. Defendant articulates no legal justification for its brazen contempt of this court's orders, and Defendant offers no contradiction to the video and photographic evidence of open contumacious conduct.

For the reasons set forth in Plaintiff's December 10, 2020 motion papers, Plaintiff's January 4, 2021 reply, and above, the court should grant the Commissioner's motion, enforcing the court's October 8, 2020 Order and entering additional judgment against Defendant in the amount of \$139,479.84.

April 30, 2021

Page 4

Thank you for Your Honor's ongoing time and attention to  
this matter.

Respectfully submitted,

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: s/ Stephen Slocum  
Stephen Slocum (907802012)  
Deputy Attorney General  
[Stephen.slocum@law.njoag.gov](mailto:Stephen.slocum@law.njoag.gov)

c. John McCann, Esq.  
Giancarlo Ghione, Esq.