



February 1, 2024

DMS NOTICE  
P – 24 –01  
DISCARD: RETAIN

**TO:** WEIGHTS AND MEASURES OFFICIALS

**SUBJECT:** Settlement – Berkebile Oil Company, Inc., a Pennsylvania Company

Enclosed is a copy of the Stipulated Final Judgment and Permanent Injunction issued against Berkebile Oil Company, Inc., a Pennsylvania Company. The civil enforcement action case was filed on October 17, 2023, by the District Attorney’s Office for Alameda County. This Final Judgment is ordered under Business and Professions Code (BPC) §17200, et seq., and §17500, et seq., for unfair and fraudulent business acts or practices related to the sale or offer for sale of petroleum products including BPC sections §17203, §17206, and §17535. This action also included violations regarding the selling of transmission fluid whose characteristics fail to meet the specifications for that product, BPC §13713, and BPC §13413 or §17500 by advertising in media or on the product labeling the lubricating oil product has been approved by the American Petroleum Institute unless in possession of current and unexpired proof of such approval for each product advertised.

Defendant shall, every quarter, retain a properly certified laboratory to perform viscosity testing of all Transmission Fluids sold in CA. Any Transmission Fluid that does not meet applicable viscosity specifications shall be immediately removed from use. Defendant shall retain records of all testing for five (5) years and make them available to the People upon request.

The California Department of Food and Agriculture, Division of Measurement Standards Special Investigators conducted a four-month-long investigation of Berkebile Oil Company, Inc. by collecting products at various locations throughout the state, which led to the above-noted permanent injunction.

Pursuant to BPC sections 17203 and 17535 the defendant is to pay Civil Penalties in the amount of \$20,000, payable in equal amounts of \$5,000 for each of the four counties that represented the People in this action: Alameda County District Attorney’s Office, Los Angeles County District Attorney’s Office, San Bernardino County District Attorney’s Office and Sonoma County District Attorney’s Office. Investigative costs were \$15,000 made payable to the Department of Food and Agriculture, Division of Measurement Standards. Total settlement \$35,000.





CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE

Karen Ross, Secretary

The Department appreciates the fine work done by the following Offices of District Attorneys in Alameda County, Los Angeles County, San Bernardino County, and Sonoma County. It acknowledges Special Investigator Chis Lenert for his diligence and dedication that documented these violations and supported the prosecution thereof. If you have any questions, please contact John Larkin, Supervising Special Investigator, Enforcement Branch at (916) 229-3000 or [john.larkin@cdfa.ca.gov](mailto:john.larkin@cdfa.ca.gov).

Sincerely,

Kevin Schnepf  
Director

Enclosure

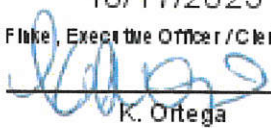
cc: Hyrum Eastman, County/State Liaison, CDFA



Electronically Received 10/17/2023 10:42 AM

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2 District Attorney of Alameda County  
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4 Deputy District Attorney  
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6 Oakland, CA 94621  
7 Telephone: (510) 383-8600  
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EXEMPT FROM FILING FEES  
PURSUANT TO GOV. CODE §6103

**FILED**  
Superior Court of California  
County of Alameda  
10/17/2023  
Clad File, Executive Officer / Clerk of the Court  
By:  Deputy  
K. Ortega

9 *Additional counsel listed in Appendix A to*  
10 *Stipulation For Entry Of Final Judgment*  
11  
12 *Attorneys for Plaintiff*

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 IN AND FOR THE COUNTY OF ALAMEDA

15 PEOPLE OF THE STATE OF CALIFORNIA,  
16 Plaintiff,  
17 vs.  
18 THE BERKEBILE OIL COMPANY, INC., a  
19 Pennsylvania corporation,  
20 Defendant.

Case No.: 23CV046806

~~[PROPOSED]~~ STIPULATED FINAL  
JUDGMENT AND PERMANENT  
INJUNCTION

21 Plaintiff, the People of the State of California, appearing through its attorneys: Pamela Y.  
22 Price, District Attorney of Alameda County, by Alexandra Grayner, Deputy District Attorney;  
23 Carla R. Rodriguez, District Attorney of Sonoma County, by Matthew T. Cheever, Chief  
24 Deputy District Attorney, and Caroline Fowler, Deputy District Attorney; Jason Anderson,  
25 District Attorney of San Bernardino County, by Rick Lal, Deputy District Attorney; and George  
26 Gascon, District Attorney of Los Angeles County, by Hoon Chun, Head Deputy District  
27 Attorney, and Kenneth Meyer, Deputy District Attorney; and Defendant, The Berkebile Oil  
28 Company, Inc. ("Defendant"), a Pennsylvania corporation, appearing through its attorneys,  
Allen Matkins Leck Gamble Mallory & Natsis LLP by Kevin D. Lloyd, Esq. enter into this  
Stipulation for Entry of Final Judgment. The parties have agreed to entry of this Stipulated  
Final Judgment and Permanent Injunction (hereinafter "Stipulated Final Judgment") without

1 the taking of proof and without this Stipulated Final Judgment constituting evidence of or an  
2 admission by any party regarding any issue of fact or law alleged in the Complaint, and  
3 Defendant having waived the right to appeal, and good cause appearing,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

5 1. The Final Judgment has been reviewed by this Court and is found to have been  
6 entered in good faith and to be, in all respects, just, reasonable, equitable and adequate to  
7 protect the public from the occurrence in the future of the conduct alleged in the Complaint.

8 2. Unless otherwise stated, all obligations imposed upon Defendant by the terms of  
9 this Final Judgment are ordered pursuant to sections 17200, et seq., and 17500, et seq., of the  
10 California Business and Professions Code, including sections 17203, 17206, and 17535.

11 3. The Parties waive the right to appeal this Final Judgment both as to form and  
12 content.

13 **JURISDICTION AND VENUE**

14 4. This civil enforcement action is brought by Plaintiff in the public interest under  
15 the laws of the State of California. As Defendant has offered for sale and/or sold products or  
16 services throughout the State of California, including Alameda County, the Alameda County  
17 Superior Court ("Court") has jurisdiction of the subject matter hereof and of the Parties hereto  
18 and is a proper venue for this action.

19 **APPLICABILITY**

20 5. This Final Judgment is applicable to Defendant and to its agents, servants,  
21 employees, representatives, officers, directors, managers, parents, subsidiaries, successors, and  
22 assigns, and to any and all persons, employees, corporations, and other entities acting in concert  
23 or participating with Defendant, with actual or constructive notice of this judgment. The Final  
24 Judgment also applies to Defendant to the extent it controls marketing, selling, or distributing  
25 products through licensees, franchisees, or distributors, or in connection with a licensing  
26 agreement or product distribution agreement. Whenever the term "Defendant" is used herein, it  
27 shall be understood and defined as described above.

28 6. Nothing in this Final Judgment shall excuse Defendant from meeting any more

1 stringent requirements which may be imposed hereinafter by changes in applicable and legally  
2 binding legislation, regulations, ordinances and/or permits.

3 7. For purposes of this Stipulated Final Judgment, the following definitions apply:

4 A. "TRANSMISSION FLUID" shall have the same meaning as defined in  
5 California Business & Professions Code Section 13700(b), i.e., a lubricant, coolant, or liquid  
6 medium product intended for use in a motor vehicle transmission.

7 B. "DMS" shall mean California Department of Food and Agriculture,  
8 Division of Measurement Standards.

9 C. "LUBRICATING OIL" shall have the same meaning as defined in  
10 California Business & Professions Code Section 13400(m), i.e., motor oil, engine lubricant,  
11 engine oil, lubricating axle oil, gear oil, or manual transmission fluid.

12 D. "MOTOR OIL" means an oil that reduces friction and wear between the  
13 moving parts within an internal combustion engine and also serves as a coolant.

14 E. "SELL," or any of its variants, shall have the same meaning as defined in  
15 California Business & Professions Code Section 13400(t), i.e., attempt to sell, offer for sale, or  
16 assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade,  
17 barter, or expose for sale.

18 **INJUNCTIVE RELIEF**

19 8. Defendant shall be and is hereby permanently enjoined and restrained, pursuant  
20 to California Business & Professions Code sections 17203, 17204 and 17535, from doing,  
21 directly or indirectly, the following within California:

22 A. Violating Business and Professions Code section 13713 by SELLING in  
23 California any TRANSMISSION FLUID whose characteristics fall below the specifications for  
24 that product established as minimum standards by DMS.

25 B. Violating Business and Professions Code section 13413 or 17500 by  
26 advertising either in the media or on product labeling that LUBRICATING OIL product has  
27 been approved by the American Petroleum Institute unless at the time of the advertisement  
28

1 Defendant has in its possession current and unexpired proof of such approval for each product  
2 so advertised.

3 C. Violating California Code of Regulations, title 4, section 4150 by failing  
4 to include on the label of each container of MOTOR OIL product SOLD in California the  
5 SAE/API Service Classification in question in letters not less than one-eighth inch (3.18 mm)  
6 in height.

7 9. On a quarterly basis, Defendant is hereby mandated and required, pursuant to  
8 California Business and Professions Code sections 17203, 17204 and 17535, to retain a  
9 properly certified laboratory to perform viscosity testing of all TRANSMISSION FLUID  
10 SOLD in California. Any TRANSMISSION FLUID that does not meet applicable viscosity  
11 specifications shall be immediately removed from use. Defendant shall retain records of all  
12 such testing for a period of five (5) years and make them available to the People upon request.

13 **MONETARY RELIEF**

14 10. Monetary relief in this matter shall be paid as follows:

15 A. Restitution/Refunds: Pursuant to Business and Professions Code  
16 sections 17203 and 17535, Defendant is ordered to provide a full refund to any California  
17 consumer who purchased TRANSMISSION FLUID SOLD by Defendant between January 1,  
18 2020, and March 31, 2022, and who requests a refund in writing.

19 B. Investigative Costs: Defendant is further ordered pursuant to Business  
20 and Professions Code sections 17203 and 17535, to pay stipulated investigative costs in the  
21 total amount of fifteen thousand dollars (\$15,000) to DMS. These costs shall be paid in the  
22 form of cashier's check, money order or trust fund check and shall made payable to the  
23 "Division of Measurement Standards," which shall be delivered via hand delivery or overnight  
24 mail to Assistant District Attorney Lexa Grayner no later than three (3) business days after the  
25 date this Final Judgment is entered.

26 C. Civil Penalties: Defendant is hereby ordered pursuant to Business &  
27 Professions Code sections 17206 and 17536, to pay civil penalties in the total amount of twenty  
28 thousand (\$20,000). Civil penalties shall be paid in the form of cashier's checks, money orders  
or trust fund checks and made payable as follows:

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- a. One check in the amount of Five Thousand Dollars \$5,000 made payable to the "Alameda County f/b/o District Attorney's Office";
- b. One check in the amount of Five Thousand dollars (\$5,000) made payable to the "San Bernardino County f/b/o District Attorney's Office"
- c. One check in the amount of Five Thousand Dollars (\$5,000) made payable to the "Los Angeles County f/b/o District Attorney's Office"; and
- d. One check in the amount of Five Thousand Dollars(\$5,000) made payable to the "Treasurer of Sonoma County f/b/o District Attorney's Office."

The aforementioned checks required shall be delivered via hand delivery or overnight mail to Assistant District Attorney Lexa Grayner no later than three (3) business days after the date this Final Judgment is entered.

**COMPLIANCE**

11. For the purpose of securing compliance with the terms of this Final Judgment, Defendant is hereby ordered and mandated to do all of the following:

A. Within thirty (30) days of the date of the entry of this Final Judgment, Defendant shall provide a copy of this Final Judgment to each of its current principals, officers, directors and managers, affiliates, subsidiaries and to all personnel, agents and representatives having primary authority over marketing and advertising with respect to the subject matter of this Final Judgment and shall obtain from each such person a legible signed written acknowledgment indicating that he or she has received a copy of this Final Judgment, read it, understood its terms, and agreed to fully abide by all of its terms. Defendant shall provide written verification of such acknowledgments to representatives of Plaintiff within fifteen (15) days of any written request to do so;

B. For a period of five (5) years after entry of this Final Judgment, Defendant shall provide a copy of this Final Judgment to each of its future principals, officers, directors and managers, future affiliates, future subsidiaries, and to all future personnel, agents

1 and representatives having primary authority over marketing and advertising with respect to the  
2 subject matter of this judgment within ten (10) days after the person commences his or her  
3 responsibilities. Defendant shall obtain from each such person a legible signed written  
4 acknowledgment indicating that he or she received a copy of this Final Judgment, read it,  
5 understood its terms, and agreed to fully abide by all of its terms. Defendant shall maintain and  
6 upon request make available, within fifteen (15) days of receipt of a written request, to  
7 representatives of Plaintiff for inspection and copying, all such legible signed written  
8 acknowledgments.

9 **JURISDICTION RETAINED**

10 12. Jurisdiction is retained for the purposes of enabling any Party to apply to the  
11 Court at any time for such order or directions as may be necessary or appropriate for the  
12 construction of or carrying out of this Final Judgment, for the modification or termination of  
13 any of the provisions thereof, for the enforcement of compliance therewith, or for the  
14 punishment of violations thereunder.

15 **EFFECT AND ENTRY**

16 13. This Final Judgment shall take effect immediately upon entry hereof.

17 Dated: 10/16/2023

  
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JUDGE OF THE SUPERIOR COURT

**Somnath Raj Chatterjee / Judge**

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