

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TCF INVENTORY FINANCE, INC.,  
Plaintiff,  
v.  
MARKER OIL COMPANY, INC., and  
BILLY LEON MARKER, JR.,  
Defendants.

No. 2:17-cv-1768-JAM-DB

**ORDER GRANTING TCF INVENTORY  
FINANCE, INC.'S MOTION FOR  
CONTEMPT AGAINST DEFENDANTS**

On September 11, 2017, the Court issued a preliminary injunction against Defendants Marker Oil Company, Inc. ("Marker Oil") and Billy Leon Marker, Jr. (collectively, "Defendants") ordering, adjudging, and decreeing that Marker Oil and its officers, directors, agents, representatives, and employees, as well as any others acting on their behalf, are restrained from doing the following:

1. Transferring any interest by sale, pledge, or grant of security interest, or otherwise disposing of, transferring, or encumbering the Subject Property identified in Exhibit 1 to the Preliminary Injunction ("Exhibit 1");
2. Concealing, hiding, or otherwise removing the Subject Property identified in Exhibit 1;
3. Impairing the value of any of the Subject Property identified in Exhibit 1;

///

1 4. Removing the Subject Property identified in Exhibit  
2 1 from the principal place of business of Marker Oil  
3 or otherwise outside of the jurisdiction of this  
4 Judicial District; and

5 5. Disposing of the proceeds from the transfer of any  
6 interest of the Subject Property identified in  
7 Exhibit 1 that may have occurred prior to issuance  
8 of this Order.

9 ECF No. 18. The preliminary injunction further ordered,  
10 adjudged, and decreed that Marker Oil and its officers,  
11 directors, agents, representatives, and employees, as well as any  
12 others acting on their behalf, are required to do the following:

13 1. Return the Subject Property identified in Exhibit 1  
14 to the principal place of business of Marker Oil at  
15 205 N. Main Street, Alturas, California 96101 or  
16 such other location within the Judicial District  
17 agreeable to the parties for delivery to Plaintiff  
18 TCFIF Inventory Finance, Inc. ("TCFIF"); and

19 2. Maintain Marker Oil's books and records and provide  
20 TCFIF full access to such books and records.

21 On April 6, 2018, the Court heard TCFIF's motion for  
22 contempt against Defendants for violating the preliminary  
23 injunction. ECF No. 38. William R. Bay and Jeffrey N. Brown of  
24 Thompson Coburn LLP appeared on behalf of TCFIF, Tom Gifford of  
25 the Law Office of Tom Gifford appeared by telephone on behalf of  
26 Defendants, and Mr. Marker appeared in person.

27 Following consideration of the parties' written submissions  
28 and oral argument, including statements made by Mr. Marker, the  
Court grants TCFIF's motion for contempt for the reasons stated  
upon the record and holds Defendants in contempt. The Court  
finds that Defendants knowingly violated the preliminary  
injunction as to eight units of the Subject Property by selling  
the units and/or by removing the units from, or not returning the  
units to, Marker Oil's principal place of business. The Court

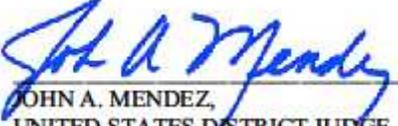
1 further finds that Defendants have not paid TCFIF for the eight  
2 sold or otherwise missing units, for which they owe TCFIF  
3 \$139,653.28.

4 The Court sanctions Defendants, jointly and severally, and  
5 orders them to pay \$139,653.28 to TCFIF within 30 days after  
6 entry of this order as compensation for the eight units. The  
7 Court further orders Defendants, jointly and severally, to pay an  
8 additional \$15,000.00 to TCFIF within 30 days after entry of this  
9 order as reimbursement to TCFIF for its reasonable attorneys'  
10 fees and costs incurred in pursuing this order of contempt  
11 against Defendants.<sup>1</sup> If Defendants do not timely pay these  
12 amounts to TCFIF, TCFIF may present further briefing to the Court  
13 regarding further appropriate sanctions to be entered against  
14 Defendants.

15 The preliminary injunction issued on September 11, 2017  
16 shall remain in full force and effect. To the extent that TCFIF  
17 seeks a new writ of possession pursuant to the Court's order for  
18 writ of possession dated September 11, 2017, ECF No. 19, TCFIF  
19 shall file an application with the Court to that effect.

20 IT IS SO ORDERED.

21 Dated: April 11, 2018

22   
23 JOHN A. MENDEZ,  
24 UNITED STATES DISTRICT JUDGE

25 \_\_\_\_\_  
26 <sup>1</sup> The Court reviewed and considered the Declaration of William R.  
27 Bay concerning attorneys' fees and costs. ECF No. 50. Although  
28 the attorneys' rate appears reasonable, the Court found a number  
of their documented activities to be duplicative and reduced the  
award accordingly.