

JUL 14 2017

Sherri B. Corbin, Esq. Registrar/Clerk  
By Raul Sanchez Deputy

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Attorney General of California.  
2 GARY E. TAVETIAN (STATE BAR NO. 117135)  
Supervising Deputy Attorney General  
3 DANIEL M. LUCAS (STATE BAR NO. 235269)  
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6 Fax: (213) 897-2802  
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7 *Attorneys for the People of the State of*  
*California ex rel. the California Air Resources*  
8 *Board*

**EXEMPT FROM FILING FEES**  
**[GOV. CODE, § 6103]**

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF LOS ANGELES  
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15  
16 **THE PEOPLE OF THE STATE OF CALIFORNIA**  
**EX REL. THE CALIFORNIA AIR RESOURCES**  
17 **BOARD,**

18 Plaintiff,

19 v.

20 **BOMBARDIER RECREATIONAL PRODUCTS**  
21 **INC.,**  
**BRP US INC., AND**  
22 **DOES 1-50, INCLUSIVE,**

23 Defendants.  
24

Case No. BC608480

D32

25 **NOTICE OF ENTRY OF JUDGMENT**  
26 **PURSUANT TO STIPULATION**

Judge: Hon. Daniel S. Murphy  
27 Trial Date: None set

28 Action Filed: January 27, 2016

07/17/2017

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TO EACH PARTY AND THEIR ATTORNEY OF RECORD IN THIS ACTION:

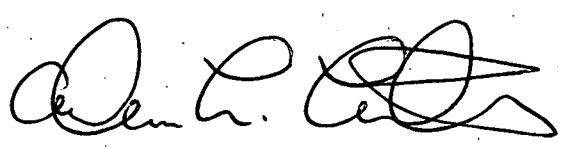
NOTICE IS HEREBY GIVEN THAT the Judgment Pursuant to Stipulation was signed by Los Angeles County Superior Court Judge Daniel S. Murphy on July 11, 2017, and filed and entered on the same date.

A file-stamped copy of the Judgment Pursuant to Stipulation is attached hereto as Exhibit A.

Dated: July 14, 2017

Respectfully Submitted,

XAVIER BECERRA  
Attorney General of California  
GARY E. TAVETIAN  
Supervising Deputy Attorney General



ADAM L. LEVITAN  
Deputy Attorney General  
*Attorneys for the People of the State of California ex rel. the California Air Resources Board*

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Los Angeles, CA 90013  
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E-mail: Daniel.Lucas@doj.ca.gov  
*Attorneys for the People of the State of  
California ex rel. the California Air Resources  
Board*

**FILED**  
Superior Court of California  
County of Los Angeles

JUL 11 2017

Sherril R. Carter, Executive Officer/Clerk  
By Inna R. Doty Deputy

**EXEMPT FROM FILING FEES  
[GOV. CODE, § 6103]**

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JUL 10 2017

FILING WINDOW

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

D-32

**THE PEOPLE OF THE STATE OF CALIFORNIA  
EX REL. THE CALIFORNIA AIR RESOURCES  
BOARD,**  
  
Plaintiff,  
  
v.  
  
**BOMBARDIER RECREATIONAL PRODUCTS  
INC.,  
BRP US INC., AND  
DOES 1-50, INCLUSIVE,**  
  
Defendants.

Case No. BC608480

~~PROPOSED~~ JUDGMENT PURSUANT  
TO STIPULATION

Judge: Hon. Daniel S. Murphy  
Trial Date: none set

Action Filed January 27, 2016

Plaintiff, the People of the State of California *ex rel.* the California Air Resources Board  
(State Board), and Defendants, Bombardier Recreational Products Inc. (BRP) and BRP US Inc.  
(BRP US) stipulate that a Judgment in the terms set forth in the attached Judgment may and

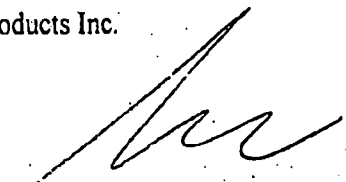
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1 should be entered in this matter. The parties have settled on the below terms following good faith  
2 negotiations and with the desire to avoid further litigation.

3 **IT IS SO STIPULATED.**


4 For Bombardier Recreational Products Inc.

5  
6 Dated: May 11, 2017

7   
8 Sébastien Martel  
9 Chief Financial Officer  
10 Bombardier Recreational Products Inc.

11 For BRP US Inc.

12 Dated: May 15, 2017

13   
14 Martin Dangelier  
15 Senior Vice President, General Counsel & Public Affairs  
16 BRP US Inc.

17 For People of the State of California *ex rel.* the California Air Resources Board.

18 Dated: ~~May~~ June 27, 2017

19   
20 RICHARD W. COREY  
21 Executive Officer  
22 California Air Resources Board

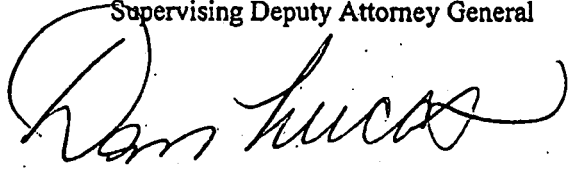
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APPROVED AS TO FORM.

Dated: <sup>July 5</sup> May   , 2017

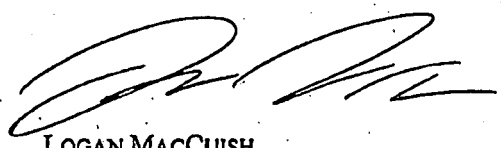
XAVIER BECERRA  
Attorney General of California  
GARY E. TAVETIAN  
Supervising Deputy Attorney General



DANIEL M. LUCAS  
Deputy Attorney General  
*Attorneys for the People of the State of  
California ex rel. the California Air  
Resources Board*

Dated: May 18 2017

KING & SPALDING LLP



LOGAN MACCUISH  
*Attorneys for Bombardier Recreational  
Products Inc. and BRP US Inc.*

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1 **JUDGMENT**

2 Plaintiff, the People of the State of California *ex rel.* the California Air Resources Board  
3 (State Board), and Defendants, Bombardier Recreational Products Inc. (BRP) and BRP US Inc.  
4 (BRP US), having stipulated to entry of this judgment (Judgment), and good cause appearing for  
5 approval of the stipulation:

6 **IT IS HEREBY ORDERED** that Judgment is awarded in favor of the State Board as set  
7 forth below.

8 **1. PERMANENT INJUNCTION**

9 BRP and BRP US, and their agents, servants, employees, representatives, and all persons  
10 acting in concert or participating with them, and each of them, are permanently enjoined from and  
11 ordered:

12 (i) Not to import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle,  
13 new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration,  
14 or resale in California unless such motor vehicle engine or motor vehicle has been certified under  
15 an Executive Order of the California Air Resources Board pursuant to the Health and Safety  
16 Code, Division 26, Part 5, Chapters 1 and 2 (Executive Order).

17 (ii) Not to sell, or offer to sell, to an ultimate purchaser who is a resident of or doing  
18 business in California any new motor vehicle, new motor vehicle engine, or vehicle with a new  
19 motor vehicle engine, which is intended primarily for use or for registration in California and  
20 which has not been certified under an Executive Order.

21 (iii) Not to attempt or assist in any action prohibited under (i) or (ii), immediately above.  
22 The words attempt or assist for purposes of this section shall include (a) representing to any  
23 person or business entity, or to any government agency, that any new motor vehicle, new motor  
24 vehicle engine, or vehicle with a new motor vehicle engine, which has not been certified under an  
25 Executive Order, is so certified, or is legal for use, registration, or resale in California, or (b)  
26 preparing, using, or distributing any writing to any person or business entity, or to any  
27 government agency stating that any new motor vehicle, new motor vehicle engine, or vehicle with  
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1 a new motor vehicle engine, which has not been certified under an Executive Order, is so  
2 certified, or is legal for use, registration, or resale in California.

3 No provision of the injunction shall bar the State Board from seeking other judicial  
4 remedies (including penalties or injunctive relief) as to future violations.

5 **2. PENALTIES**

6 BRP shall pay a total penalty of seven hundred eighty-three thousand dollars (\$783,000.00)  
7 pursuant to Health and Safety Code section 43154, as follows:

8 (i) BRP shall pay to the "California Air Pollution Control Fund" the sum of five hundred  
9 eighty-seven thousand two hundred and fifty dollars and zero cents (\$587,250.00) in four separate  
10 payments over a twelve (12) month period. A first payment of one hundred forty-six thousand  
11 eight hundred twelve dollars and fifty cents (\$146,812.50) shall be made within ten (10) days of  
12 the State Board giving notice to BRP and BRP US of the entry of this Judgment. Three (3)  
13 subsequent payments of one hundred forty-six thousand eight hundred twelve dollars and fifty  
14 cents (\$146,812.50) each shall be made within ninety (90) days following the previous payment.

15 (ii) BRP shall pay to the "San Joaquin Valley School Bus Supplemental Environmental  
16 Project" the sum of one hundred ninety-five thousand seven hundred and fifty dollars and zero  
17 cents (\$195,750.00) in four separate payments over a twelve (12) month period. A first payment  
18 of forty-eight thousand nine hundred thirty-seven dollars and fifty cents (\$48,937.50) shall be  
19 made within ten (10) days of the State Board giving notice to BRP and BRP US of the entry of  
20 this Judgment. Three (3) subsequent payments of forty-eight thousand nine hundred thirty-seven  
21 dollars and fifty cents (\$48,937.50) each shall be made within ninety (90) days following the  
22 previous payment.

23 (iii) BRP can make and the State Board shall accept early payments.

24 (iv) All payments shall be sent, along with the attached Stipulated Judgment Payment  
25 Transmittal Form, to the attention of:

26 California Air Resources Board  
27 Accounting Office  
28 P.O. Box 1436  
Sacramento, California 95812-1436

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1           **3.    RETAINED JURISDICTION**

2           The Court shall retain jurisdiction pursuant to Code of Civil Procedure section 664.6 to  
3 enforce this settlement and Judgment including but not limited to determining that any violation  
4 of the payment provisions of this Judgment has occurred or to determine pursuant to noticed  
5 motion that any alleged violations of the permanent injunction has occurred, and whether to order  
6 BRP or BRP US to pay the entire Judgment of seven hundred eighty-three thousand dollars  
7 (\$783,000.00) within thirty (30) days following such order less credit for any monies already  
8 received pursuant to this Judgment.

9           **4.    ENFORCEMENT**

10          **A.    Failure to Make Payments**

11          (i) If BRP fails to timely make any of the payments described in Sections 2.(i) and (ii),  
12 above, then the State Board or its counsel shall give notice by electronic mail and by U.S. mail to  
13 BRP at the following address:

14                   Logan MacCuish  
15                   King & Spalding LLB  
16                   633 West 5th Street, Suite 1700  
17                   Los Angeles, California 90071  
18                   lmaccuish@kslaw.com

19          BRP shall have ten (10) calendar days from the date of the notice to cure the violation and make  
20 the payment (Cure Period). There will be no further notices required. BRP shall provide timely,  
21 written notification to the State Board whenever BRP's foregoing contact information changes. If  
22 BRP fails to provide the State Board with such notification, then any notice by the State Board to  
23 BRP at the foregoing address shall constitute sufficient notice.

24          (ii) If BRP fails to pay the full amount within the Cure Period, then the State Board or its  
25 counsel may make an ex parte application, without further notice, to the Court for an Order that  
26 BRP or BRP US, or both, pay the entire penalty amount of seven hundred eighty-three thousand  
27 dollars (\$783,000.00) within thirty (30) days following the Order, less credit for any monies  
28 already received by the State Board pursuant to this Judgment.

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1           **B. Failure to Comply With Injunction**

2           (i) If the State Board believes that any willful or intentional violation of the permanent  
3 injunction has taken place, then the State Board or its counsel shall meet and confer with BRP or  
4 BRP US in an attempt to resolve any dispute without Court intervention.

5           (ii) If BRP or BRP US fail to meet and confer with the State Board or its counsel and the  
6 willful or intentional violation of the permanent injunction has not been resolved, then the State  
7 Board may bring a regularly noticed motion for an Order that BRP pay the entire penalty amount  
8 of seven hundred eighty-three thousand dollars (\$783,000.00) within thirty (30) days following  
9 the Order, less credit for any monies already received by the State Board pursuant to this  
10 Judgment.

11           (iii) If after the meet and confer takes place, the State Board believes that a willful or  
12 intentional violation of the injunction has not been resolved, then the State Board may bring a  
13 regularly noticed motion for an Order that BRP pay the entire penalty amount of seven hundred  
14 eighty-three thousand dollars (\$783,000.00) within thirty (30) days following the Order, less  
15 credit for any monies already received by the State Board pursuant to this Judgment.

16           (iv) If the Court determines that any willful or intentional violation(s) of the permanent  
17 injunction has occurred, then the Court may order BRP or BRP US, or both, to pay the entire  
18 penalty amount of seven hundred eighty-three thousand dollars (\$783,000.00) within thirty (30)  
19 days following the Order, less credit for any monies already received by the State Board pursuant  
20 to this Judgment. For purposes of this Judgment, the parties agree that criteria for determining  
21 whether a willful or intentional violation has occurred shall include:

- 22           1. whether the State Board has previously cited the model vehicle at issue;  
23           2. the number of vehicles acquired, received, imported, offered for sale, or sold;  
24           3. the procedures taken by BRP and BRP US to prevent violations of the permanent  
25 injunction;  
26           4. whether BRP or BRP US knowingly misrepresented or advertised the vehicles or  
27 engines as certified or legal for sale in California;  
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1 5. the extent of dissemination or any representation or advertisement that claims or implies  
2 that the vehicles or engines are certified or legal for sale, resale, use, or registration in California;

3 6. BRP or BRP US's misrepresentations as to other matters related to the vehicles or  
4 engines; and

5 7. any other factor that the Court determines is relevant in evaluating whether the violation  
6 was willful or intentional.

7 **C. Effect of Bankruptcy**

8 The payments described in Section 2, above, are made pursuant to the provisions of  
9 California Health and Safety Code section 43154. Therefore, it is agreed that the payments are  
10 non-dischargeable under 11 U.S.C § 523 (a)(7), which provides an exception from discharge for  
11 any debt to the extent that such debt is for a fine, penalty or forfeiture payable to and for benefit  
12 of governmental unit, and is not compensation for actual pecuniary loss, other than certain types  
13 of tax penalties.

14 **5. COMPUTATION OF TIME**

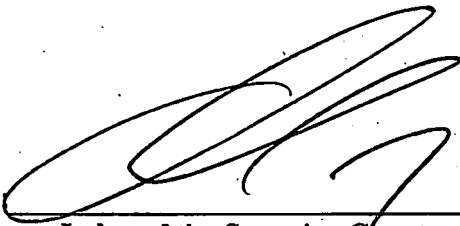
15 If the last day for the performance of any act provided or required by this Judgment falls on  
16 a weekend or holiday, then that period is extended to the next business day. "Holiday" means all  
17 holidays specified in Code of Civil Procedure section 135, and to the extent provided in Code of  
18 Civil Procedure section 12b, all days that by terms of section 12b are required to be considered as  
19 holidays.

20 **6. COSTS AND ATTORNEY'S FEES**

21 Except as provided by this Judgment, each party shall bear its own costs and attorney's  
22 fees.

23 **IT IS SO ORDERED ADJUDGED AND DECREED.**

24  
25 Dated: JUL 11 2017, 2017.

26  
27 By   
28 Judge of the Superior Court  
Judge Daniel S. Murphy

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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: People of the State of CA ex rel. The CA Air Resources Board v. Bombardier Recreational Products, Inc., BRP US Inc., et al.

LASC Case No.: BG608480

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

On July 10, 2017, I served the attached:

**[PROPOSED] JUDGMENT PURSUANT TO STIPULATION**

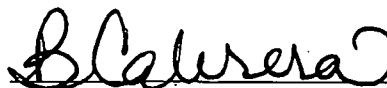
by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows:

Granta Nakayama, Esq.  
King & Spalding  
1700 Pennsylvania Avenue, NW, Suite 200  
Washington, DC 20006-4707  
*Attorneys for Bombardier Recreational Products Inc. and BRP US Inc.*

Logan MacCuish, Esq.  
King & Spalding  
333 South Grand Avenue, Suite 4200  
Los Angeles, CA 90071  
*Attorneys for Bombardier Recreational Products Inc. and BRP US Inc.*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 10, 2017, at Los Angeles, California.

Blanca Cabrera  
Declarant

  
Signature

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07/13/2017

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: People of the State of CA ex rel. The CA Air Resources Board v. Bombardier Recreational Products, Inc., BRP US Inc., et al.

LASC Case No.: BC608480

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

On July 14, 2017, I served the attached:

**NOTICE OF ENTRY OF JUDGMENT PURSUANT TO STIPULATION**

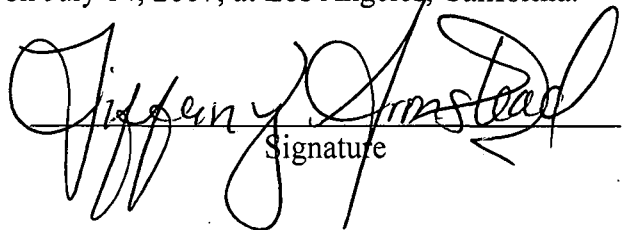
by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows:

Granta Nakayama, Esq.  
King & Spalding  
1700 Pennsylvania Avenue, NW, Suite 200  
Washington, DC 20006-4707  
*Attorneys for Bombardier Recreational Products Inc. and BRP US Inc.*

Logan MacCuish, Esq.  
King & Spalding  
633 West 5<sup>th</sup> Street  
Los Angeles, CA 90071  
*Attorneys for Bombardier Recreational Products Inc. and BRP US Inc.*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 14, 2017, at Los Angeles, California.

Tiffany Armstead  
Declarant



Signature