NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PAUL GUZMAN and JEREMY ALBRIGHT, individually and on behalf of all others similarly situated, Plaintiffs-Appellants, v. POLARIS INDUSTRIES, INC., a Delaware corporation; et al., Defendants-Appellees.	No. 21-55520 D.C. No. 8:19-cv-01543-FLA-KES MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Fernando L. Aenlle-Rocha, District Judge, Presiding

Argued and Submitted May 9, 2022
Pasadena, California

Before: WATFORD and FRIEDLAND, Circuit Judges, and ROBRENO,** District Judge.

Paul Guzman appeals the district court's grant of summary judgment in favor of Polaris Industries. Polaris sells off-road vehicles that have roll cages, or

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Eduardo C. Robreno, United States District Judge for the Eastern District of Pennsylvania, sitting by designation.

rollover protective structures ("ROPS"). Paul Guzman and Jeremy Albright (whose claims are the subject of a separate opinion filed concurrently with this memorandum disposition) filed a class action alleging that the labels on their Polaris vehicles, which state that the ROPS complied with OSHA standards, are false and misleading and that Guzman, Albright, and the putative class members relied on the false labels when purchasing the vehicles. The Plaintiffs brought their action pursuant to: (1) the California Consumers Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, et seq.; (2) the California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, et seq.; and (3) the California False Advertising Law ("FAL"), Cal. Bus & Prof. Code § 17500, et seq.

In its order granting summary judgment in favor of Polaris and against Guzman, the district court concluded that Guzman had failed to show reliance on the representation at issue and, thus, could not maintain his claims. The district court relied heavily on Guzman's deposition testimony that he could only recall seeing the words "OSHA" and "Polaris" on the ROPS label but that because of his experience with tools used in construction work, he understood anything that was "OSHA approved" to be safe and reliable. The court concluded that Guzman admitted he did not fully read the sticker and, thus, could not have relied on the

specific statement that the ROPS itself met an OSHA standard.

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the appeal of a summary judgment ruling de novo, applying "the same standard used by the trial court under Federal Rule of Civil Procedure 56(c)." *Fontana v. Haskin*, 262 F.3d 871, 876 (9th Cir. 2001). Under Rule 56, summary judgment is appropriate when "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "[I]n ruling on a motion for summary judgment, '[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.'" *Tolan v. Cotton*, 572 U.S. 650, 651 (2014) (per curiam) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)).

We conclude that, viewing all evidence and inferences in the light most favorable to Guzman, a reasonable jury could find that he relied on the ROPS label. Thus, we will reverse the district court's order of summary judgment against him.

In order to succeed on his claims, Guzman must establish, inter alia, that he actually relied on the alleged misrepresentation that the ROPS met the OSHA standard. *Sateriale v. R.J. Reynolds Tobacco Co.*, 697 F.3d 777, 794 (9th Cir.

2012); *Kwikset Corp. v. Superior Court*, 246 P.3d 877, 887-88 (Cal. 2011).

While Guzman did testify that he recalled reading only the words "OSHA" and "Polaris" on the label, he also testified that he saw the label on the ROPS, "checked if it was OSHA-approved for like the cage," and that he understood the language on the label meant that the ROPS met federal safety standards, was safe to use, and would protect the occupants in the event of an accident. We conclude that, under these specific facts, a reasonable jury could find that Guzman relied on the label's representation that the ROPS met an OSHA standard.[1]

As a result, we reverse the district court's entry of summary judgment in favor of Polaris and against Guzman based on its finding that Guzman did not adequately show reliance on the ROPS label.

REVERSED and REMANDED.

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[1] We do not reach Polaris's alternative argument that the Appellants' claims fail because they "received the benefit of their bargain." This issue was not addressed by the district court. Thus, we leave it to the district court on remand to consider that argument in the first instance if necessary.