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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PAUL GUZMAN, *et al.*,  
Plaintiffs,

v.

POLARIS INDUSTRIES, INC., *et al.*,  
Defendants.

Case Nos.  
8:19-cv-01543-FLA (KESx) (lead case)  
2:23-cv-07187-FLA (KESx)

**ORDER GRANTING PLAINTIFF’S  
MOTION TO CONSOLIDATE  
[DKT. 198]**

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MICHAEL HELLMAN, *et al.*,  
Plaintiffs,

v.

POLARIS INDUSTRIES, INC., *et al.*,  
Defendants.

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1 **RULING**

2 Before the court is Plaintiff Paul Guzman’s (“Plaintiff”) Motion to Consolidate  
3 (“Motion”), wherein Plaintiff requests consolidation of this action (“*Guzman* Action”) with  
4 *Michael Hellman, et al. v. Polaris Industries, Inc., et al.*, Case No. 2:23-cv-  
5 07187-FLA (KESx) (“*Berlanga* Action”).<sup>1</sup> Dkt. 198 (“Mot.”).<sup>2</sup> Defendants Polaris  
6 Industries, Inc., Polaris Sales, Inc., and Polaris Industries, Inc. (collectively,  
7 “Defendants” or “Polaris”) oppose the Motion. Dkt. 199 (“Opp’n”).

8 On March 12, 2024, the court found this matter appropriate for resolution  
9 without oral argument and vacated the hearing set for March 15, 2024. Dkt. 204; *see*  
10 Fed. R. Civ. P. 78(b); Local Rule 7-15. For the reasons stated herein, the court  
11 GRANTS the Motion.

12 **BACKGROUND**

13 The facts of the parties’ dispute are set forth in the court’s Order on  
14 Defendant’s Motion for Summary Judgment (“MSJ Order”), Dkt. 153, and the court’s  
15 Order Granting In Part Plaintiff’s Motion for Class Certification (“Class Certification  
16 Order”), Dkt. 184.

17 In relevant part, Polaris sells various models of off-road vehicles. Dkt. 153 at 1.  
18 Polaris sells vehicles under the brand names “RZR,” “Ranger,” and “General.” *Id.*  
19 Each vehicle comes equipped with a roll cage, also known as a rollover protective  
20 structure, or “ROPS.” *Id.* The ROPS serves to protect occupants in the event of a  
21 rollover. *See id.*

22 Polaris’ ROPS follows standards set forth by the American National Standards  
23 Institute and the Recreational Off-Highway Vehicle Association, which requires the  
24 ROPS to comply with the performance requirements of either the International  
25

26 \_\_\_\_\_  
27 <sup>1</sup> The court refers to this action as the *Berlanga* Action because Francisco Berlanga is  
28 the only remaining plaintiff in the action. *See* Opp’n at 3–4.

<sup>2</sup> All docket citations are to the *Guzman* Action unless stated otherwise.

1 Organization for Standardization standard 3471 or Occupational Safety and Health  
2 Administration (“OSHA”) regulation 29 C.F.R. § 1928.53 (“§ 1928.53”). Dkt. 153  
3 at 1. Thus, certain Polaris vehicles display stickers containing the language: “This  
4 ROPS structure meets OSHA requirements of 29 C.F.R. § 1928.53,” along with the  
5 vehicle model and test gross vehicle weight (“GVW”). Dkt. 153 at 1.

6 Guzman purchased a 2018 Polaris RZR XP in November 2018. *Id.* at 2.  
7 Guzman alleges he saw and read the ROPS sticker on his vehicle prior to purchase  
8 and understood the sticker to mean the vehicle’s ROPS met OSHA standards for  
9 safety. Dkt. 39 (“SAC”) ¶¶ 45–46, 49–50. According to Guzman, he relied on the  
10 sticker’s representations and would not have purchased the vehicle but for the  
11 representations made on the sticker. *Id.* ¶¶ 47, 51.

12 Guzman alleges the sticker on his vehicle reads as follows:



18 *Id.* ¶ 49.

19 According to Plaintiff, the ROPS sticker is false and misleading because the  
20 ROPS does not meet the requirements of § 1928.53. *Id.* ¶ 5. He alleges § 1928.53  
21 requires testing based on maximum power take-off horsepower or 95% of the net  
22 engine flywheel, but, instead, Polaris tested every model of class vehicle based on  
23 GVW. *Id.* ¶¶ 37–41. He contends consumers were damaged by Polaris’ failure to  
24 provide accurate and truthful information about the nature and characteristics of the  
25 class vehicles, since consumers must now retrofit purchased vehicles to ensure their  
26 safety. *Id.* ¶ 42.

27 On August 8, 2019, Guzman and former Plaintiff Jeremy Albright (“Albright”)  
28 filed a complaint against Polaris, asserting class action claims for violations of the

1 California Consumer Legal Remedies Act (“CLRA”), California Unfair Competition  
2 Law (“UCL”), and California False Advertising Law (“FAL”). *See* Dkt. 1; SAC. On  
3 May 12, 2021, the court issued the MSJ Order, granting summary judgment in favor  
4 of Polaris against all of Guzman and Albright’s causes of action in the Second  
5 Amended Complaint. Dkt. 153.

6 Four days later, on May 25, 2021, the *Berlanga* Action was filed by Plaintiffs  
7 Michael Hellman, Francisco Berlanga, Tim Artoff, Cy Mitchell, and Jonathan Lollar  
8 in the Eastern District of California, and was assigned to Chief United States District  
9 Judge Kimberly J. Mueller. *Berlanga* Action, Dkt. 1. The *Berlanga* Action was  
10 brought “for two reasons: 1) to protect absent class members in the event that Mr.  
11 Guzman and Mr. Albright’s dismissals were upheld by the Ninth Circuit, and 2) to  
12 expand the proposed class period due to the passage of time, because evidence showed  
13 that Polaris had never changed the allegedly unlawful practices at issue in both cases.”  
14 Mot. at 5–6. The *Berlanga* Action “relat[es] to the same conduct alleged,  
15 investigated[,] and litigated in the [*Guzman* Action],” and “the same complaint with  
16 the same allegations” was used, except the proposed class period was adjusted “for the  
17 passage of time.” *Id.* at 5.

18 On September 29, 2022, the Ninth Circuit reversed the MSJ Order as to  
19 Guzman, ruling that, “viewing all evidence and inferences in the light most favorable  
20 to Guzman, a reasonable jury could find that he relied on the ROPS label.” Dkt. 164  
21 at 3. On November 14, 2022, the court reopened this action as to Guzman. Dkt. 165.  
22 On April 19, 2023, the court dismissed without prejudice Guzman’s claims for  
23 monetary relief in connection with the UCL and FAL claims. Dkt. 172.

24 On August 8, 2023, Judge Mueller transferred the *Berlanga* Action to this  
25 district pursuant to the first-to-file rule. *Berlanga* Action, Dkt. 108. Judge Mueller  
26 noted the *Guzman* Action was “nearly identical” to the *Berlanga* Action, and the “only  
27 true difference between the two cases” is “a difference between the proposed class  
28

1 periods.” *Id.* at 1–2. The *Berlanga* Action was assigned to this court on September  
2 13, 2023. *Id.*, Dkts. 111, 129.

3 On September 27, 2023, the court certified the following class in the *Guzman*  
4 Action:

5 All California residents who between August 8, 2016 and December 31,  
6 2019 purchased one or more models of Polaris RZR UTVs in California  
7 which were advertised with a sticker on the ROPS system as complying  
8 with OSHA requirements as set forth under 29 C.F.R. § 1928.53, and  
9 which were tested using Gross Vehicle Weight, not Tractor Weight (i.e.  
a Polaris RZR sold with a stock ROPS installed).

10 Class Certification Order at 18–19. Additionally, in the *Berlanga* Action, on July 16,  
11 2024, the court certified the following class:

12 All California residents, who, between in or about May 25, 2018 and  
13 Present, purchased one or more models of Polaris RZR, Ranger, or  
14 General UTVs, in California, which were advertised with a sticker on  
15 the ROPS system as complying with OSHA requirements as set forth  
16 under 29 C.F.R. § 1928.53, and which were tested using Gross Vehicle  
Weight, not Tractor Weight.

17 *Berlanga* Action, Dkt. 150 at 16, and the following subclass:

18 All California residents, who, between in or about May 25, 2018 and  
19 Present, purchased one or more models of Polaris RZR UTVs, in  
20 California, which were advertised with a sticker on the ROPS system as  
21 complying with OSHA requirements as set forth under 29 C.F.R.  
22 § 1928.53, and which were tested using Gross Vehicle Weight, not  
Tractor Weight.

23 *Id.*

## 24 DISCUSSION

25 Pursuant to Fed. R. Civ. P. 42(a), a court may consolidate actions involving “a  
26 common question of law or fact.” “[A] district court has broad discretion under this  
27 rule to consolidate cases pending in the same district.” *Invs. Rsch. Co. v. U.S. Dist.*  
28 *Ct. for Cent. Dist. of California*, 877 F.2d 777, 777 (9th Cir. 1989). “To determine

1 whether to consolidate, a court weighs the interest in judicial convenience against the  
2 potential for delay, confusion, and prejudice caused by consolidation.” *Paxonet*  
3 *Commc’ns, Inc. v. TranSwitch Corp.*, 303 F. Supp. 2d 1027, 1028 (N.D. Cal. 2003)  
4 (citation omitted). “The party seeking consolidation bears the burden of establishing  
5 that the judicial economy and convenience benefits of consolidation outweigh any  
6 prejudice.” *McCollum v. TGI Fridays Inc.*, Case No. 5:22-cv-00801-FWS (JDEx),  
7 2022 WL 3574446, at \*1 (C.D. Cal. July 25, 2022) (citation omitted).

8 Here, consolidation will substantially aid judicial economy and convenience,  
9 and will not prejudice the parties. As recognized by Judge Mueller, the two actions  
10 are “nearly identical,” and the “only true difference between the two cases” is “a  
11 difference between the proposed class periods.” *Berlanga* Action, Dkt. 108 at 1–2.  
12 The actions, thus, involve common questions of law and fact. *See* Fed. R. Civ. P.  
13 42(a); *see also* *McCollum*, 2022 WL 3574446, at \*3 (consolidating putative class  
14 actions brought by a defendant’s current and former employees where the two actions  
15 had “overlapping class periods”); *Taylor v. Schneider Nat’l Carriers, Inc.*, Case No.  
16 10-04565-GHK (JEMx), 2010 WL 11515254, at \*1 (C.D. Cal. Oct. 27, 2010)  
17 (consolidating putative class actions where there was “substantial similarity between  
18 the proposed classes in the two actions”). Additionally, Polaris does not explain—and  
19 the court cannot surmise—how Polaris would be prejudiced by consolidation. *See*  
20 *Opp’n*. Accordingly, Plaintiff has met his burden of establishing that the benefits of  
21 judicial economy and convenience outweigh any prejudice. Fed. R. Civ. P. 42(a).  
22 Consolidation is warranted.

### 23 CONCLUSION

24 For the above reasons, the court GRANTS the Motion and ORDERS as  
25 follows:


- 26 1. The Clerk shall consolidate *Paul Guzman v. Polaris Industries, Inc., et*  
27 *al.*, 8:19-cv-01543-FLA (KESx), and *Francisco Berlanga v. Polaris*  
28 *Industries, Inc., et al.*, 2:23-cv-07187-FLA (KESx), for all purposes.

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- 2. The docket in case number 8:19-cv-01543 shall constitute the master docket for the consolidated action and shall be captioned *Paul Guzman v. Polaris Industries, Inc., et al.*
- 3. The Clerk shall file a copy of this Order in, and then administratively close, *Francisco Berlanga v. Polaris Industries, Inc., et al.*, 2:23-cv-07187-FLA (KESx).

IT IS SO ORDERED.

Dated: July 17, 2024



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FERNANDO L. AENLLE-ROCHA  
United States District Judge