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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PAUL GUZMAN, *et al.*,
Plaintiffs,

v.

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

MICHAEL HELLMAN, *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
DEFENDANTS' MOTION FOR
PARTIAL RECONSIDERATION
AND FOR CLARIFICATION OF
ORDER GRANTING IN PART
CLASS CERTIFICATION [DKT.
220]**

1 **RULING**

2 Before the court is Defendants Polaris Industries, Inc., Polaris Sales, Inc., and
3 Polaris Inc.’s (collectively, “Defendants” or “Polaris”) motion for partial
4 reconsideration and for clarification of the court’s order granting in part class
5 certification (the “Motion”) in Case No. 2:23-cv-07187-FLA (KESx) (“*Berlanga*
6 *action*” or “*Berlanga*”). See Case No. 8:19-cv-01543-FLA (KESx) (“*Guzman* *action*”
7 or “*Guzman*”), Dkts. 220, 220-1 (“Mot.”). Plaintiff Francisco Berlanga (“Plaintiff”)
8 opposes the Motion. *Guzman*, Dkt. 222 (“Opp’n”). On August 27, 2024, the court
9 found this matter appropriate for resolution without oral argument and vacated the
10 hearing set for August 30, 2024. See Fed. R. Civ. P. 78(b); Local Rule 7-15. For the
11 reasons stated herein, the court GRANTS the Motion.

12 **BACKGROUND**¹

13 As relevant here, the court certified the following Fed. R. Civ. P. (“Rule”)
14 23(b)(3) class:

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

20 *Berlanga*, Dkt. 150 (emphases added). The court also certified the following Rule
21 23(b)(3) subclass:

22 All California residents, who, between in or about May 25, 2018 and
23 **Present**, purchased one or more models of **Polaris RZR UTVs, in**
24 **California**, which were advertised with a sticker on the ROPS system
25 as complying with OSHA requirements as set forth under 29 C.F.R.

26 ¹ The background facts relevant to the instant Motion are set forth in the court’s July
27 16, 2024 Order Granting in Part Plaintiff’s Motion for Class Certification (*Berlanga*,
28 Dkt. 150 (“Class Cert. Order”)), which the court incorporates by reference into this
Order.

1 § 1928.53, and which were tested using Gross Vehicle Weight, not
2 Tractor Weight.

3 *Id.* (emphases added). The only difference between the two classes is the omission of
4 Ranger and General UTVs in the subclass. *See id.*

5 On July 30, 2024, Defendants filed the instant Motion, requesting the court
6 narrow the scope of the *Berlanga* class to include only purchasers of RZR-branded
7 vehicles, because Plaintiff voluntarily agreed to narrow the class as such in his reply
8 brief in support of his motion for class certification. Mot. at 2. Plaintiff opposes this
9 request. *See Opp'n.*

10 Defendants also ask the court to “clarify” that the end date of the *Berlanga* class
11 period—currently stated as “Present”—should be “July 14, 2021,” the date Plaintiff
12 filed his operative complaint. Mot. at 1. Plaintiff disagrees that the term “Present”
13 needs clarification, as it “clearly means the date the [Class Cert.] Order was issued”—
14 *i.e.*, July 16, 2024. *Opp'n* at 1.

15 DISCUSSION

16 **I. Legal Standard**

17 Reconsideration of a court’s order is an “extraordinary remedy, to be used
18 sparingly in the interests of finality and conservation of judicial resources.” *Kona*
19 *Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (citation omitted)
20 (discussing reconsideration under Fed. R. Civ. P. 59(e)). A motion for reconsideration
21 “should not be granted, absent highly unusual circumstances, unless the district court
22 is presented with newly discovered evidence, committed clear error, or if there is an
23 intervening change in controlling law.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma*
24 *GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009) (citation omitted). The movant bears
25 the burden of proving reconsideration is proper. *See 389 Orange St. Partners v.*
26 *Arnold*, 179 F.3d 656, 665 (9th Cir. 1999) (noting it was the movant’s burden “to
27 establish that the district court committed clear error”).
28

1 In this district, motions for reconsideration are also governed by Local Rule 7-
2 18, which provides:

3 A motion for reconsideration of an Order on any motion or application
4 may be made only on the grounds of (a) a material difference in fact or
5 law from that presented to the Court before such decision that in the
6 exercise of reasonable diligence could not have been known to the party
7 moving for reconsideration at the time of such decision, or (b) the
8 emergence of new material facts or a change of law occurring after the
time of such decision, or (c) a manifest showing of a failure to consider
material facts presented to the Court before such decision.

9 Local Rule 7-18. Additionally, “[n]o motion for reconsideration shall in any manner
10 repeat any oral or written argument made in support of or in opposition to the original
11 motion.” *Id.* “Unhappiness with the outcome is not included within the rule; unless
12 the moving party shows that one of the stated grounds for reconsideration exists, the
13 Court will not grant a reconsideration.” *Gish v. Newsom*, Case No. 5:20-cv-00755-
14 JGB (KKx), 2020 WL 6054912, at *2 (C.D. Cal. Oct. 9, 2020) (citation omitted).

15 **II. Analysis**

16 **A. RZR-Branded Vehicles**

17 On reconsideration, the court agrees the class should include only purchasers of
18 RZR-branded vehicles, in light of Plaintiff’s agreement to narrow the class as such.
19 *Berlanga*, Dkt. 96 at 6 (“To streamline and avoid what Plaintiff ultimately views as a
20 distraction, Plaintiff voluntarily agrees to narrow the proposed class definition to the
21 proposed Subclass.”); *In re Westwood Plaza N.*, Case No. 13-cv-00318-BRO, 2016
22 WL 11697858, at *7 (C.D. Cal. Jan. 13, 2016) (explaining that, on a motion for
23 reconsideration, courts may consider whether their decision was “outside the
24 adversarial issues presented by the parties”) (ellipsis removed) (citation omitted);
25 *Bafus v. Aspen Realty, Inc.*, Case No. 04-cv-00121-S-BLW, 2007 WL 793633, at *1
26 (D. Idaho Mar. 14, 2007) (granting motion to clarify class certification decision where
27 class definition lacked temporal limitations). Accordingly, the Motion is GRANTED
28 on this basis.

1 **B. Class Period**

2 The court agrees the word “Present” in the certified class should be clarified.
3 *See Kang v. Credit Bureau Connection, Inc.*, Case No. 1:18-cv-01359-AWI (SKOx),
4 2022 WL 658105, at *3 (E.D. Cal. Mar. 4, 2022) (“[An] unspecified end date ...
5 creates a moving target and presents potential case management problems.”) (cleaned
6 up). While Plaintiff cites to other courts in this district that have certified class
7 periods through the “present,” those courts, too, will eventually have to clarify what
8 “present” means. *See* Opp’n at 9 (citing *Makaron v. Enagic USA, Inc.*, 324 F.R.D.
9 228, 235–36 (C.D. Cal. 2018); *Wolf v. Hewlett Packard Co.*, Case No. 15-cv-01221-
10 BRO (GJSx), 2016 WL 7743692, at *15 (C.D. Cal. Sept. 1, 2016)). This court finds it
11 prudent to do so now.

12 Polaris argues the term “Present” should be defined as the day the operative
13 complaint was filed, “because plaintiff pled a class running only through ‘the filing of
14 this Complaint,’ and district courts in this Circuit treat the definition of a class
15 specifically alleged in a complaint as limiting the class for which a plaintiff may seek
16 Rule 23 certification absent a request for leave to amend.” Mot. at 7 (cleaned up)
17 (quoting *Berlanga*, Dkt. 22 (“FAC”) ¶ 83 (defining class to include “[a]ll persons in
18 California that purchased a Class Vehicle in the four years preceding the filing of this
19 Complaint.”); *McCurley v. Royal Seas Cruises, Inc.*, 331 F.R.D. 142, 161 (S.D. Cal.
20 2019)). Polaris contends, “[a] class through ‘Present’ is beyond the scope of the class
21 plaintiff alleged,” and, thus, improperly expands the scope of the class. Dkt. 224
22 (Reply) at 3.

23 The court agrees with Polaris. The First Amended Complaint in the *Berlanga*
24 action seeks a class for the “four years preceding the filing of this Complaint.” FAC
25 ¶ 83. Plaintiff’s desire to define “Present” as the date of the Class Cert. Order is an
26 improper attempt “to expand the class rather than narrow it.” *Schoonover v. Iovate*
27 *Health Scis. U.S.A. Inc.*, Case No. 22-cv-01487-FLA (AGRx), 2023 WL 7107132,
28 at *2 (C.D. Cal. Aug. 21, 2023).

1 Plaintiff further argues, “[t]he record shows [] Polaris to this very day continues
2 to sell [class] vehicles advertised to meet the OSHA test for its ROPS,” Opp’n at 8, so
3 if the end date is set as of the filing of the FAC, the Class will be reduced by
4 approximately 20,000 vehicles and Class Counsel will have to file additional lawsuits
5 and motions for consolidation, “resulting in a waste of judicial and party resources,”
6 Opp’n at 2. Regardless, “absent an amended complaint,” the court “is bound to class
7 definitions provided in the complaint.” *Costelo v. Chertoff*, 258 F.R.D. 600, 604–05
8 (C.D. Cal. 2009). The court, thus, GRANTS the Motion on this basis and clarifies
9 that “Present” means July 14, 2021.

10 **CONCLUSION**

11 For the above reasons, the court GRANTS the Motion and ORDERS as
12 follows:

- 13 1. The court DECERTIFIES the classes certified in the Class Cert. Order
14 (*Berlanga*, Dkt. 150).
- 15 2. The court CERTIFIES the following class:

16 All California residents, who, between in or about May 25, 2018
17 and July 14, 2021, purchased one or more models of Polaris RZR
18 UTVs, in California, which were advertised with a sticker on the
19 ROPS system as complying with OSHA requirements as set forth
20 under 29 C.F.R. § 1928.53, and which were tested using Gross
Vehicle Weight, not Tractor Weight.

21 IT IS SO ORDERED.

22
23 Dated: August 30, 2024



24 FERNANDO L. AENLLE-ROCHA
25 United States District Judge
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