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8
9 UNITED STATE DISTRICT COURT
10 EASTERN DISTRICT OF WASHINGTON
11

12 DANA HERRON and VALERIE
13 HERRON, husband and wife, and the
14 marital community composed thereof,

15 Plaintiff,

16 v.

17 POLARIS, INC., a Delaware Corporation,
18 also known as POLARIS INDUSTRIES,
19 INC.

20 Defendants.

NO. 4:24-cv-5084

PLAINTIFF’S COMPLAINT
AND DEMAND FOR JURY
TRIAL

21 Plaintiffs Dana Herron and Valerie Herron, through counsel, files this
22 Complaint against Defendant Polaris Inc. and alleges as follows:

23 **PARTIES**

24 1. Plaintiffs Dana Herron and Valerie Herron, are husband and wife,
25 and at all relevant times were residents of Franklin County, Washington and are
26 citizens of the State of Washington.

FACTS

1
2 6. Polaris is a company that designs, develops, manufactures,
3 assembles, markets, distributes and sells outdoor recreational vehicles,
4 including utility task vehicles, throughout the United States, including in the
5 State of Washington.
6

7 7. On or about September 9, 2021, Dana and Valerie Herron
8 purchased a 2021 Polaris Ranger 1000 Premium (“Ranger”) (VIN
9 #4XATAE997M8396046).
10

11 8. On July 21, 2022, Dana Herron was operating his Ranger on his
12 property in Franklin County, Washington.
13

14 9. Dana was driving the Ranger eastbound on the gravel driveway in
15 front of his house, and intended to turn the vehicle southbound to drive toward
16 his house.
17

18 10. Dana removed his foot from the throttle pedal with the intent of
19 slowing the Ranger to make the turn. However, the Ranger failed to decelerate
20 despite the throttle pedal no longer being pushed.
21

22 11. The unexpected functioning of the vehicle and the speed caused by
23 the malfunctioning throttle caused Dana to lose control of the vehicle, and
24 resulted in the Ranger colliding with a tree adjacent to the driveway.
25
26

1 12. The collision resulted in Dana suffering severe, permanent and
2 disabling injuries.

3 13. Dana suffered a traumatic spinal cord injury resulting in lower
4 body paralysis, and he is now confined to a wheelchair.
5

6 14. On or about March 4, 2021, Polaris issued an “Off-Road Product
7 Safety Recall” for a throttle pedal defect for certain model year 2020-2021
8 Ranger 1000 vehicles.
9

10 15. On or about December 16, 2021, Polaris issued an “Off-Road
11 Product Safety Recall”, (recall number R-21-09-A) expanding the previously
12 issued recall to include the Herron’s Ranger. (VIN #4XATAE997M8396046).
13

14 16. Polaris described the defect thusly, “the throttle pedal can return to
15 the idle position more slowly than anticipated once the pedal is released or stick
16 in the depressed position, posing a crash hazard.”
17

18 17. On or about December 17, 2021, Polaris reported that over
19 104,000 vehicles were affected, and that they had received 279 reports of throttle
20 pedals returning to the idle position slowly or sticking, and 19 reports of vehicle
21 crashes, resulting in multiple injuries.
22

23 18. The Ranger operated by Dana on July 21, 2022, is subject to the
24 recall and, as of July 21, 2022, had not been repaired according to Polaris’s Off-
25 Road Vehicle Safety Recall website database.
26

1 19. Dana was unaware of the product recall at the time of the July 21,
2 2022, collision.

3 20. The Ranger Dana operated on July 21, 2022, was designed,
4 manufactured, assembled, marketed, and distributed by Polaris and sold by an
5 authorized Polaris dealer with a defective throttle pedal that either returned to
6 the idle position more slowly than anticipated once the operator released the
7 pedal, or stuck in a depressed position after the operator released the pedal.
8
9

10 21. This defect caused a lack of control in the Ranger Dana was
11 operating on July 21, 2022, resulting in injury to him.

12 22. As a direct and proximate result of the Herron's Ranger's defective
13 throttle pedal, Dana sustained severe, permanent and disabling injuries and
14 damages, including but not limited to: severe physical, mental and emotional
15 injuries; past, present and future pain and suffering; past, present and future
16 mental and emotional distress; permanent impairment and paralysis, lack of
17 mobility without a wheelchair and bodily disfigurement. As a result of his
18 injuries, Dana has incurred, and will continue to incur, significant expenses for
19 medical treatment and care.
20
21
22

23 23. As a direct and proximate result of the Ranger's defective throttle
24 pedal, Dana has sustained damages in the form of lost earnings, and a loss in
25 earning capacity.
26

1 29. Based on the known events, established by the Off-Road Product
2 Safety Recall and otherwise, Polaris breached its duty and was otherwise
3 negligent, including, but not limited to, in one or more of the following respects:
4

5 a. In designing and manufacturing the 2020-2021 models of
6 Ranger 1000 utility-task vehicles, including the Herron's Ranger, with
7 defective throttle pedals that returned to the idle position more slowly
8 than anticipated once the operator released the pedal or stuck in a
9 depressed position after the operator released the pedal.
10

11 b. In failing to design and manufacture the 2020-2021 models
12 of Ranger utility-task vehicles, including the Herron's Ranger, in a way
13 that fairly meets the uses for which they were directed, designed, and
14 reasonably anticipated.
15

16 c. In failing to conduct the research, tests, and inspections
17 necessary to determine that the throttle pedals were defective in that they
18 returned to the idle position more slowly than anticipated once the
19 operator released the pedal or stuck in a depressed position after the
20 operator released the pedal.
21

22 d. In failing to conduct the research, tests, and inspections
23 necessary to determine that the use of the 2020-2021 models of Ranger
24 1000 utility-task vehicles, including the Herron's Ranger, were
25
26

1 dangerous to consumers and users, including Dana, when being used as
2 directed, designed, and reasonably anticipated.

3 e. In failing to give adequate warning, both before and after
4 purchase, to consumers and users, including Dana, of known or
5 reasonably anticipated dangers of the 2020-2021 models of Ranger 1000
6 utility-task vehicles, including the Herron's Ranger, when such injuries
7 were reasonably anticipated if an adequate warning was not given.
8
9

10 30. As a direct and proximate result of Polaris's negligence, Dana
11 sustained damages, including but not limited to: severe physical, mental and
12 emotional injuries; past, present and future pain and suffering; past, present and
13 future mental and emotional distress; permanent impairment and paralysis; lack
14 of mobility without a wheelchair; bodily disfigurement; lost earnings; and loss
15 of earning capacity. As a result of his injuries, Dana has incurred, and will
16 continue to incur, significant expenses for medical treatment and care.
17
18

19 **SECOND CAUSE OF ACTION**

20 **STRICT PRODUCT LIABILITY (RCW 7.72.030)**

21
22 31. The Plaintiffs restate the preceding paragraphs of the Complaint as
23 though fully set forth herein.
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1 32. At all relevant times, Polaris engaged in the business of
2 manufacturing, producing, assembling, and selling utility-task vehicles like and
3 including the one Dana was operating at the time of his injury.

4 33. Polaris designed, manufactured, assembled, marketed, and
5 distributed the defective Ranger.
6

7 34. The Ranger was designed and expected to be used by consumers
8 and users, including Dana, to perform the types of activities in which Dana was
9 engaged at the time of the incident.
10

11 35. The Ranger was in a defective condition and unreasonably
12 dangerous to users and consumers, including Dana, because it was not
13 reasonably fit for its ordinary and reasonably foreseeable purposes for which it
14 was sold, manufactured, and expected to be used.
15

16 36. The Ranger was defective when it left Polaris' custody and control
17 and was expected to, and did, reach Dana without a substantial unforeseeable
18 change in the condition the Ranger was in when it left Polaris' control.
19

20 37. Polaris could have designed, developed, and manufactured the
21 Ranger so that the throttle pedal returned to the idle position as would
22 anticipated once the operator released the pedal.
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1 38. Polaris could have designed, developed, and manufactured the
2 Ranger so that the throttle pedal did not stick in a depressed position after the
3 operator released the pedal.

4 39. Polaris's failure to design, develop, and manufacture the Ranger to
5 decelerate when the throttle pedal is released renders the Ranger not reasonably
6 safe for its ordinary and reasonably foreseeable purposes for which it was sold,
7
8 manufactured, and expected to be used.

9 40. Pursuant to RCW 7.72.030(2), a product manufacturer is subject
10 to strict liability to a claimant if the claimant's harm was proximately caused by
11 the fact that the product was not reasonably safe in construction or not
12 reasonably safe because it did not conform to the manufacturer's express
13 warranty or to the implied warranties under Title 62A RCW.

14 41. The Herron's Ranger was not reasonably safe in construction
15 because it materially deviated from the design specifications or performance
16 standards of Polaris.

17 42. The Herron's Ranger was not reasonably safe in construction
18 because it materially deviated from otherwise identical units of the same product
19 line.

1 43. Polaris expressly warranted against defects in material and
2 workmanship. Polaris breached their express warranty by delivering a defective
3 product to Herron.

4 44. Polaris further breached their implied warranty of merchantability
5 in that the Ranger was not fit for the ordinary purpose in which it is used.
6

7 45. As a direct and proximate result of the Ranger's defective
8 condition, Dana sustained damages, including but not limited to: severe
9 physical, mental and emotional injuries; past, present and future pain and
10 suffering; past, present and future mental and emotional distress; permanent
11 impairment and paralysis; lack of mobility without a wheelchair; bodily
12 disfigurement; lost wages; and loss of earning capacity. As a result of his
13 injuries, Dana has incurred, and will continue to incur, significant expenses for
14 medical treatment and care.
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18 46. Polaris is strictly liable to Dana for all injuries and damages he
19 sustained as a result of the Ranger's defective condition.
20

21 **THIRD CAUSE OF ACTION**

22 **LOSS OF CONSORTIUM**

23 47. The Plaintiffs restate the preceding paragraphs of the Complaint as
24 though fully set forth herein.
25
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues that are so triable.

DATED this 12th day of July, 2024.

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