

1 **I. PROCEDURAL AND FACTUAL BACKGROUND**

2 In 2006, Defendant PC Marketing, Inc. (“PC Marketing”) sold a P90 tanning bed
3 to B&B Tans, LLC (“B&B”). C14-5210, Dkt. 1 at 3. B&B operated a Desert Sun
4 Tanning Salon (“Desert Sun”) at a strip mall in Silverdale, Washington. *Id.* at 2.

5 On January 8, 2012, a fire broke out in a tanning bed at Desert Sun. *Id.* The fire
6 destroyed a building in the strip mall. *Id.* at 3.

7 On November 22, 2013, Plaintiffs KSH Properties, Inc. (“KSH”) and Beans &
8 Leaves, LLC (“Beans & Leaves”) filed a complaint against PC Marketing for their
9 individual damages from the fire. C13-6008, Dkt. 1. KSH owned the building that was
10 destroyed. *Id.* at 2. Beans & Leaves was a tenant in the building. *Id.*

11 On March 12, 2014, Assurance and Security filed a complaint against PC
12 Marketing for their individual damages from the fire. C14-5210, Dkt. 1. Assurance and
13 Security provided insurance coverage to tenants in the building. *Id.* at 2.

14 Both complaints allege that PC Marketing is liable under the Washington Product
15 Liability Act (“WPLA”) because PC Marketing manufactured a defective tanning bed
16 that caught fire. C13-6008, Dkt. 1 at 3–4; C14-5210, Dkt. 1 at 3–5.

17 On August 7, 2014, Assurance and Security filed a motion to consolidate the two
18 cases for discovery and trial. C14-5210, Dkt. 13. On August 18, 2014, PC Marketing
19 responded. C14-5210, Dkt. 18. On August 22, 2014, Assurance and Security replied.
20 C14-5210, Dkt. 20.

II. DISCUSSION

Assurance and Security argue that the cases should be consolidated because the cases involve almost identical issues of law and fact. C14-5210, Dkt. 13 at 4. KSH and Beans & Leaves consent to consolidation, provided that the existing scheduling order in their case controls the consolidated matter. *Id.* at 3. In response, PC Marketing argues that consolidation would result in substantial prejudice and confusion. C14-5210, Dkt. 18 at 2.

Federal Rule of Civil Procedure 42(a) provides for consolidation of separately filed cases when the cases involve a common question of law or fact. Fed. R. Civ. P. 42(a). The court has broad discretion to consolidate cases. *In re Adams Apple, Inc.*, 829 F.2d 1484, 1487 (9th Cir. 1987). In deciding whether to consolidate, the court considers a number of factors, including judicial economy and potential prejudice to a party opposing the consolidation. *See First Mercury Ins. Co. v. SQI, Inc.*, 2014 WL 496685, at *3 (W.D. Wash. Feb. 6, 2014).

Here, the Court finds that consolidation is proper. The cases involve common questions of law. Both complaints allege that PC Marketing is liable under the WPLA because PC Marketing manufactured a defective tanning bed that caught fire. PC Marketing's defenses in both cases are almost identical as well. *See* C13-6008, Dkt. 9 at 4–8; C14-05210, Dkt. 8 at 4–8. Additionally, the cases involve common questions of fact. All of the allegations arise from the same event—the Desert Sun fire. Moreover, the cases involve many of the same witnesses. *See* C14-05210, Dkt. 19, Declaration of William J. Leedom, Ex. 4; Ex. 5. Consolidation will also serve the interests of judicial

1 | economy. The Court will be able to address overlapping issues in the cases in a more
2 | streamlined manner.

3 | PC Marketing raises several concerns about consolidation. First, PC Marketing
4 | argues that consolidation will confuse the jury because each plaintiff alleges separate
5 | damage claims. C14-5210, Dkt. 18 at 5. Second, PC Marketing argues that it will be
6 | substantially prejudiced by consolidation because it has to defend against each plaintiff's
7 | separate damages claim. *Id.* at 6. Finally, PC Marketing argues that fairness mandates
8 | new case deadlines if consolidation occurs. *Id.*

9 | Consolidation will not confuse the jury or prejudice PC Marketing. The jury can
10 | easily hear testimony about each plaintiff's damages, and make decisions as to the
11 | reasonableness of the damage claims. Further, PC Marketing must assess each plaintiff's
12 | damage claim regardless of whether the cases are consolidated. Thus, no additional
13 | prejudice or confusion will occur if the cases are consolidated.

14 | Having decided that consolidation is proper, the Court grants Assurance and
15 | Security's motion to consolidate. The Court, however, agrees that new case deadlines are
16 | appropriate. Accordingly, the parties shall confer and provide the Court with a new joint
17 | status report by September 19, 2014.

1 **III. ORDER**

2 Therefore, it is hereby **ORDERED** that Plaintiffs' motion to consolidate (C14-
3 5210, Dkt. 13) is **GRANTED**. All further pleadings shall be filed in C13-6008. The
4 Clerk shall close C14-5210.

5 Dated this 4th day of September, 2014.

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8 BENJAMIN H. SETTLE
United States District Judge

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