

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

ORAL DAMOCLES et al.,	)	
	)	
Plaintiffs,	)	No. 3:22-cv-00401
	)	
v.	)	
	)	
MITSUBISHI MOTORS NORTH	)	JUDGE RICHARDSON
AMERICA, INC.,	)	
	)	
Defendant.	)	

**ORDER**

Pending before the Court is the parties’ Joint Motion for Consolidation (Doc. No. 53, “Instant Motion”), wherein Plaintiffs Oral Damocles, Justin Haller, Brett Halliday, Rocco Russo, Joseph Everly, Everett Fields, Jessica Gentry, Sarah Greendale, Vincent Viner, Brittony Guillen, Latoya Young, Suzanne Westcott, Michelle Welch, Deborah Paraday, Rachael Teras, and Courtney Wade (“Plaintiffs”) and Defendant Mitsubishi Motors North America, Inc. (“MMNA” or “Defendant”) (collectively, “the Parties”) move to consolidate the instant case with *Rezendes v. Mitsubishi Motors North America Inc.* (formerly D. Mass Case No. 1:22-cv-10211, now M.D. Tenn. Case No. 3:23-cv-00839) (“the *Rezendes* matter”) into a single consolidated action before this Court. (*Id.*).

**PROCEDURAL BACKGROUND**

On June 1, 2022 Plaintiffs<sup>1</sup> initiated the instant case by filing a complaint against MMNA, which asserted claims for common law and state statutory fraud, for breach of express and implied warranty, and under the Magnuson-Moss Act based on allegations that the hoods of 2022 Nissan

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<sup>1</sup> The original lawsuit, filed prior to this Court’s Order consolidating the *Wade* action (Doc. No. 44), did not include Plaintiff Courtney Wade.

Outlander vehicles fluttered. (Doc. No. 1). On November 28, 2022 Plaintiffs filed an amended complaint, which added more Plaintiffs and causes of action. (Doc. No. 31). Separately, counsel for Plaintiffs filed other class action complaints against MMNA asserting similar claims related to the hood flutter of 2022 Outlander vehicles, including *Wade v. Mitsubishi Motors North America, Inc.* (formerly E.D. Pa Case No. 2:22-cv-02135-CFK, now M.D. Tenn. Case No. 3:23-cv-00488) (“the *Wade* matter”) and the *Rezendes* matter. On June 9, 2023, pursuant to the parties’ joint motion (Doc. No. 43) to consolidate the *Wade* matter with the instant action pursuant to Fed. R. Civ. P. 42(a), the Court entered an order (Doc. No. 44, “*Wade* Consolidation Order”) doing exactly that.<sup>2</sup>

On July 31, 2023, the Parties submitted a joint request to transfer the *Rezendes* matter from the District of Massachusetts to this district for the convenience of the parties and in the interest of justice, pursuant to 28 U.S.C. § 1404(a). The Eastern District of Pennsylvania granted this request and transferred the *Rezendes* matter to this district on August 10, 2023. The *Rezendes* matter was assigned to this Court and District Judge Aleta Trauger. On September 18, 2023, Judge Trauger ordered the *Rezendes* matter to be transferred to this Court for all purposes, pursuant to Administrative Order 176 (authorizing reassignment of a case to another judge as one related to a case previously assigned to the other judge).

The Parties now seek to consolidate the instant action with the *Rezendes* matter. As in the instant case, Plaintiffs in the *Rezendes* matter allege various causes of action for common law and state law statutory fraud, as well as for breach of implied warranty and express warranty as a result of the alleged “flutter” defect.

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<sup>2</sup> As the Court noted in the *Wade* Consolidation Order, at that time the *Rezendes* matter was still pending in the District of Massachusetts, and thus the possibility of consolidation of the *Rezendes* matter was not yet ripe for consideration by this Court. (Doc. No. 44 at 2 n.2).

## LEGAL STANDARD AND ANALYSIS

Fed. R. Civ. P. 42(a) states that cases may be consolidated if they “involve a common question of law or fact.” Consolidation is a matter within the trial court’s discretion. *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1011 (6th Cir. 1993) (citing *Stemler v. Burke*, 344 F.2d 393, 396 (6th Cir. 1965)). Cases that have common questions of law or fact can be consolidated “for the economy and convenience of the court and of the parties.” *3D Enters. Contr. Corp. v. Harpeth Valley Utils. Dist.*, No. 3:05-0594, 2006 WL 8457621, at \*3 (M.D. Tenn. Oct. 11, 2006). The underlying objective of consolidation is “to administer the court’s business with expedition and economy while providing justice to the parties.” *Advey v. Celotex Corp.*, 962 F.2d 1177, 1180 (6th Cir. 1992) (quoting 9 Wright & Miller, Federal Practice and Procedure, § 2381 (1971)).

The Court agrees with the parties that the instant case and the *Rezendes* matter involve common questions of law or fact, thus making consolidation appropriate. Further, the consolidation of these cases would promote the economy and convenience of the Court and of the parties, including efficient case management and avoidance of burden on the parties, witnesses, and available judicial resources posed by multiple lawsuits.

## CONCLUSION

For the reasons stated herein, the Motion to Consolidate is GRANTED, and the instant case (Case No. 3:23-cv-00839) and the *Rezendes* matter (Case No. 3:22-cv-00401) are hereby consolidated. **All future filings pertaining to either case shall be made in the lead case, Oral Damocles et al., v. Mitsubishi Motors North America, Inc., Case No. 3:22-cv-00401 (the instant case captioned above).** Within 14 days of the entry of this Order, the parties shall file a new motion to amend the case management order for the two newly consolidated cases. Any further instructions regarding amendments to the current case management order or the scheduling

of a hearing in connection with case management will be addressed separately by Magistrate Judge Newbern.

IT IS SO ORDERED.

  
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ELI RICHARDSON  
UNITED STATES DISTRICT JUDGE