Monique Hernandez et al v. City of Beaumont et al

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UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

MONIQUE HERNANDEZ, JOSEPH HERNANDEZ, OLIVIA HERNANDEZ, GABRIELLE HERNANDEZ, JOANNA HERNANDEZ, ALEXIS HERNANDEZ, JOSEPH HERNANDEZ JR. AND O.G., a minor by and through her Guardian ad Litem OLIVIA HERNANDEZ,

Plaintiff, v. CITY OF BEAUMONT, OFFICER ENOCH CLARK, CORPORAL FRANCISCO VELASQUEZ, JR., CHIEF FRANK COE,

Defendants. _____

Case No. EDCV 13-00967 DDP (DTBx) ORDER DENYING THIRD-PARTY DEFENDANT'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION [Dkt. No. 84]

Presently before the Court is Third-Party Defendant Piexon AG's motion to dismiss the third party complaint for lack of personal jurisdiction (the "Motion"). (Docket No. 84.) For the reasons stated in this Order, the Motion is DENIED. I. Background

The underlying action is an excessive force case. Monique Hernandez ("Monique"), along with seven of her family members 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

(collectively, "Plaintiffs"), filed an action against the City of Beaumont ("City"), Officer Enoch Clark ("Clark"), Corporal Francisco Velasquez, Jr. ("Velasquez"), and Chief Frank Coe ("Coe"), alleging various civil rights violations. (Third Amended Complaint ("TAC"), Docket No. 51.) During the course of an arrest, Clark shot Monique with a JPX Jet Protector pepper spray gun ("JPX") at close range, causing severe eye injuries. (Id. ¶¶ 20-45.) Plaintiffs allege that "[t]he JPX gun shoots out spray liquid at 405 miles per hour. The muzzle velocities of JPX Jet Protector rounds provided to [the Beaumont Police Department] range from 550 feet per second to 1000 feet per second." (Id. ¶ 35.) Plaintiffs further allege that Clark and other Beaumont Police Department officers were not adequately trained on the use of the JPX. (Id. ¶ 36.)

The City filed a Third-Party Complaint ("TPC") against Third Party Defendants Piexon AG ("Piexon"), IBS Sigma Inc. ("IBS"), and Bart Bacolini ("Bacolini"). (Docket No. 46.) Piexon is a Swiss company that manufactures a line of personal defense products, including the JPX. (TPC ¶ 12; Fleishhauer Aff. ¶ 3.) IBS is a Canadian company that markets and distributes police and security products, including the JPX. (TPC ¶ 13.) Bacolini is a resident of California who received training from Piexon to prepare him to train law enforcement officers on the use of the JPX. (Fleischhauer Aff. ¶ 36; Decl. Gazzo ¶ 15.) Bacolini also owns and operates an affiliate business, Bacolini Enterprises, which distributes, markets, and conducts training for the JPX. (TPC ¶ 14.) In March 2010, Piexon's Vice President of International Sales, Zac Almeis, attended the 2010 Trexpo West Police Expo in Long Beach,

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California, where he trained Bacolini and provided him with Piexon's JPX training and user materials. (Gazzo Decl. ¶¶ 12-15; Fleischhauer Aff. ¶ 18.) On March 31, 2010, Bacolini received certification from the Piexon Training Academy indicating that he had completed the required training as well as passed the written and oral exams on the use and instruction of the JPX. (Fleischhauer Aff. ¶ 37.) This certification confirmed that Bacolini could certify others on the use of JPX. (Id. ¶ 38.)

In April 2010, City agreed to purchase the JPX from IBS. (TPC ¶ 31.) On May 20, 2010, Bacolini, as an authorized agent of IBS, hand delivered ten JPX devices to City's Police Department. (TPC ¶ 32.) On that same day, Bacolini trained City's police officers, exclusively relying on, referring to, and incorporating written training and user materials that Piexon provided. (TPC ¶ 33; Decl. Gazzo ¶ 16; Decl. Thuilliez ¶ 3, Exh. A.) Bacolini held two training sessions: one session to certify officers on the use of JPX and another to certify some officers so that they, in turn, could train others. (TPC ¶ 34.) The City alleges nine causes of action in the TPC: (1) Negligence; (2) Misrepresentation; (3) Strict Liability; (4) Failure to Warn; (5) Breach of Warranties; (6) Indemnification; (7) Contribution; (8) Apportionment; and (9) Declaratory Relief. City alleges that this Court has personal jurisdiction over Piexon because Piexon solicited and transacted business for the sale of the JPX in California and put products, including the JPX, into the stream of commerce, specifically targeting consumers in California and directly selling products to California law enforcement agencies. (TPC ¶¶ 3-4.)

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Piexon now moves to dismiss the TPC for lack of personal jurisdiction pursuant to Fed. R. Civ. 12(b)(2). (Docket No. 84.) II. Legal Standard

Federal Rule of Civil Procedure 12(b)(2) provides that a court may dismiss a suit for lack of personal jurisdiction. The plaintiff has the burden of establishing that jurisdiction exists. See Sher v. Johnson, 911 F.2d 1357, 1361 (9th Cir. 1990). Where, as here, the motion is based on written materials rather

than an evidentiary hearing, "the plaintiff need only make a prima facie showing of jurisdictional facts." Caruth v. International Psychoanalytical Ass'n , 59 F.3d 126, 128 (9th Cir. 1977); Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1154 (9th Cir. 2006). "Although the plaintiff cannot simply rest on the bare allegations of its complaint, uncontroverted allegations in the complaint must be taken as true." Schwarzenegger v. Fred Martin Motor Co., 374 D.3d 797, 797 (9th Cir. 2004) (internal quotations and citation omitted). Conflicts between parties over statements contained in affidavits must be resolved in the plaintiff's favor. Id.

District courts have the power to exercise personal jurisdiction to the extent authorized by the law of the state in which they sit. Fed. R. Civ. P. 4(k)(1)(A); Panavision Int'l, L.P. v. Toeppen, 141 F.3d 1316, 1320 (9th Cir. 1998). Because California's long-arm statute authorizes personal jurisdiction coextensive with the Due Process Clause of the United States Constitution, see Cal. Civ. Code § 410.10, this Court may exercise personal jurisdiction over a nonresident defendant when that defendant has "at least 'minimum contacts' with the relevant forum such that the exercise of jurisdiction 'does not offend traditional

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notions of fair play and substantial justice.'" Schwarzenegger , 374 F.3d 797, 800-01 (citing Int'l Shoe Co. v. Washington , 326 U.S. 310, 316 (1945)). The contacts must be of such a quality and nature that the defendants could reasonably expect "being haled into court there." World-Wide Volkswagen v. Woodson , 444 U.S. 286, 297 (1980).

There are two types of personal jurisdiction: general and specific. Reebok Int'l Ltd. v. McLaughlin , 49 F.3d 1387, 1391 (9th 1995). A court may exercise general personal jurisdiction over a defendant when the defendant's contacts are "so continuous and systematic as to render them essentially at home in the forum state." Goodyear Dunlop Tires Operations, S.A. v. Brown , 131 S.Ct. 2846, 2851 (2011).

Specific personal jurisdiction may be found when the cause of action arises out of the defendant's contact or activities in the forum state. See Roth v. Garcia Marquez, 942 F.2d 617, 620 (9th Cir. 1991). The Ninth Circuit has set forth the following three- pronged test to determine whether specific personal jurisdiction exists: "(1) The non-resident defendant must purposefully direct his activities or consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws; (2) the claim must be one which arises out of or relates to the defendant's forum-related activities; and (3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be reasonable." Lake v. Lake , 817 F.2d 1416, 1421 (9th Cir. 1986). If the plaintiff succeeds in establishing the first two prongs, the burden then shifts to the defendant to "present a

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compelling case" that the court's assertion of jurisdiction would be unreasonable. Burger King Corp. v. Rudzewicz, 471 U.S. 462, 476- 78 (1985). III. Discussion

Piexon moves to dismiss City's claims for lack of general and specific jurisdiction. City, in its opposition, does not argue that the Court has general personal jurisdiction over Piexon. Therefore, the only issue for the Court to resolve is whether the Court has specific personal jurisdiction over Piexon.

A. Agency Plaintiff first argues that the usual personal jurisdiction analysis should be bypassed here because Bacolini acted as Piexon's agent. For purposes of personal jurisdiction, the actions of an agent are attributable to the principal. Sher, 911 F.2d at 1362. However, the Supreme Court held that the Ninth Circuit's formulation of the "agency" test did not satisfy the requirements of due process, finding an inquiry into the "importance" of a subsidiary is not a valid test, as it "will always yield a pro-jurisdiction answer." Daimler AG v. Bauman , 134 S.Ct. 746, 759 (2014). The City argues Bacolini should be considered "sufficiently important" to Piexon's activities to be an agent of Piexon. The City points to a letter written by Piexon's executives where they refer to Bacolini as "our training instructor" to prove that Bacolini is an agent of Piexon. (Thuilliez Decl., Exh. B1.) However, Bacolini is not an employee of Piexon; had no contractual relationship with Piexon; and Piexon did not, and could not, direct or require Bacolini to instruct others in the use of the JPX. (Fleischhauer Aff. ¶¶ 39-41.) Moreover, the City, in its Motion for

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determinating settlement to be in good faith, recognized Bacolini as the West Coast Sales Manager for IBS, not for Piexon. (Docket No. 88-1, p.4.) Based on these facts, the Court finds that Bacolini is not an agent of Piexon.

B. Specific Jurisdiction

1. Purposeful Availment The first prong is satisfied by either purposeful availment or purposeful direction. 1

These are two distinct concepts: "A purposeful availment analysis is most often used in suits sounding in contract. A purposeful direction analysis, on the other hand, is most often used in suits sounding in tort." Schwarzenegger , 374 F.3d at 802 (internal citations omitted). City seeks to employ the Ninth Circuit's three-part "Calder-effects" test, which applies to a purposeful direction analysis. Calder v. Jones, 465 U.S. 783 (1984). However, the purposeful direction analysis applies only to intentional torts. See Holland Am. Line Inc. v. Wartsila N. Am., Inc., 485 F.3d 450, 460 ("[I]t is well established that the Calder test applies only to intentional torts, not to the breach of contract and

negligence claims); see also Bancroft & Masters, Inc. v. Augusta Nat'l Inc., 223 F.3d 1082, 1088 (9th Cir. 2000) (emphasizing that the Calder test requires the defendant to individually and wrongfully target the plaintiff). Here, the City's claims are based on negligence and products liability, not intentional torts. Thus, the Court will apply the more general purposeful availment analysis.

1 The parties dispute which test should apply. Piexon argues the Court should use a purposeful availment analysis. The City, on the other hand, argues for a purposeful direction analysis.

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A defendant purposefully avails itself to a forum state when that defendant "perform[s] some type of affirmative conduct which allows or promotes the transaction of business within the forum state." Sinatra v. National Enquirer, Inc. , 854 F.2d 1191, 1195 (9th Cir. 1988). City argues that Piexon is subject to personal jurisdiction because it placed products, including the JPX, into the stream of commerce, and specifically targeted consumers in California. A foreign corporation's "placing good[s] into the stream of commerce 'with the expectation that they will be purchased by consumers within the forum State" may justify that state's exercise of specific jurisdiction over the corporation. J. McIntyre Mach., Ltd. v. Nicastro, 131 S.Ct. 2780, 2783 (2011) (quoting World–Wide Volkswagen Corp. , 444 U.S. at 298). This "transmission of goods permits the exercise of jurisdiction only where the defendant can be said to have targeted the forum; as a general rule, it is not enough that the defendant might have predicted that its goods will reach the forum State." Id.

Piexon argues that it has not availed itself of the benefits and privileges of the forum state to warrant being subject to personal jurisdiction because it has no office, factory, employees, or presence in California at all. (Fleischhauer Aff. ¶¶ 5-9.) It did not directly market or sell any products to the City (IBS, the distributor, did), nor did it train the City's police officers. (Id. ¶¶ 22, 24-25.) Basically, Piexon argues it has had no contact with the forum state that would satisfy the purposeful availment prong.

The Court agrees with Piexon that several of the contacts that the City contends establish personal jurisdiction over Piexon are

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insufficient to satisfy the "purposeful availment" test. First, the City claims that Piexon directly advertised to City's Police Department Chief Coe. According to Coe, he received a packet addressed to him containing advertisement cards from manufacturers and vendors participating in a local exposition, of which one card advertised Piexon's JPX. While this may be true, it does not support City's contention that Piexon intentionally advertised to City's Police Department and thus does not support finding personal jurisdiction. See Holland Am. Line Inc., 485 F.3d at 460 ("Nor do any print advertisements that incidentally may have made their way to [the forum state] support a finding of jurisdiction without more substantial evidence of contacts with the state.").

The City also argues that Piexon has specifically targeted the United States by operating a website; obtaining a U.S. Patent and registering a trademark; participating in the 2014 International Association of Chiefs of Police Conference in Orlando, Florida; and possibly retaining a U.S. insurance policy that "presumably covers Piexon's operations in the United States." Again, while this may all be true, specific jurisdiction requires that the non-resident defendant target the forum state and not the United States as a whole. Secondly, with regards to the website that the City alleges is in English and has links to articles on the use of its products in Texas, Louisiana, and Florida, the Ninth Circuit has held "mere web presence is insufficient to establish personal jurisdiction." Holland Am. Line Inc., 485 F.3d at 460 (finding a foreign manufacturer's passive website that simply provides information on its various products and redirects potential customers to the appropriate subsidiary was not enough for purposeful availment).

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However, there is one contact between Piexon and the state of California that is central to the City's complaint. The City argues that Piexon made sufficient contact with the forum state when its Vice-President of International Sales, Zac Almeis, trained Bacolini at the 2010 Trexpo West Police Expo in Long Beach, California. While the Court agrees with Piexon that an executive's mere presence at a tradeshow is insufficient to establish jurisdiction in California, the executive's mere presence is not what is at issue in the present case. The executive took the affirmative step in training Bacolini, a California resident, on the use of the JPX for the purpose of preparing Bacolini to train others on use of the device. 2

Following this training, Bacolini received certification from the Piexon Training Academy indicating that he had completed the required training and could train others on the use of JPX pursuant to Piexon's training guidelines. (Fleischhauer Aff. ¶ 37- 38.) Almeis provided Bacolini with Piexon's training materials on a thumb drive containing electronic copies of Piexon's JPX training and user materials. (Decl. Gazzo ¶¶ 12-15; Fleischhauer Aff. ¶ 18.) Bacolini, in turn, trained the City's officers. (TPC ¶ 33; Decl. Gazzo ¶ 16; Decl. Thuilliez ¶ 3, Exh. A.) Where the City's alleged negligence claim is based, at least in part, on "inadequate training, instruction, and warning of the inherently dangerous propensities of the JPX" (TPC ¶ 53), the issue of whether Piexon, through Almeis, provided inadequate training to Bacolini is

2 At the hearing on the Motion, the parties represented that the training lasted a day to a day and a half. This suggests that the training was intended to be comprehensive and further supports the strength of the connection between Piexon's forum-related activity and the alleged injuries in this action.

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directly related to Piexon's contact with Bacolini, which occurred in California. Further, presumably

Almeis, and therefore Piexon, was aware of the likelihood that Bacolini would use his training to train law enforcement officers on the proper use of the JPX; indeed, this was the entire purpose of Almeis training Bacolini. Where Piexon knew that officers in California would be trained on the use of a potentially dangerous pepper spray weapon, and that such training would be based on training and information provided by Piexon, Piexon should expect that any deficiencies in its training would subject it to suit in the very forum where that training took place. 3

Therefore, the Court finds that the sole contact of Piexon training Bacolini in California is sufficient to satisfy the purposeful availment requirement.

2. "But For" Causation The second prong of the test requires that the asserted claim arises out of the defendant's contacts with the forum state. Panavision, 141 F.3d at 1322. This requirement is measured in terms

3 The conclusion is supported by Supreme Court dicta. In Helicopteros, the Supreme Court did not find a Colombian corporation's contacts with the state of Texas to be sufficient to satisfy purposeful availment in a wrongful death action arising from a helicopter crash. The court stated that the brief presence of the defendant's employees in Texas for the purpose of attending pilot training sessions did not enhance the nature of the defendant's contacts with Texas because the training was a part of the package of goods and services and since these purchases were not related to the cause of action, the court could not exercise general jurisdiction. Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 418 (1984). "If, however, the applicable substantive law required that negligent training of the pilot was a necessary element of a cause of action for pilot error, or if the respondents had simply added an allegation of negligence in the training provided for the [ ] pilot, then presumably the Court would concede that the specific jurisdiction of the [forum state] was applicable." Id. at 427 (Brennan, J., dissenting). Here, the City has specifically alleged negligent training. This is precisely the situation Brennan discussed in his dissenting opinion.

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of "but for" causation. Bancroft & Masters , 233 F.3d at 1088. A plaintiff must demonstrate that it would have no need for a judicial intervention but for the defendant's forum-related activities. See Yahoo! Inc. v. La Ligue Contre Le Racisme Et L'Antisemitisme, 145 F.Supp.2d 1168, 1176 (N.D. Cal. 2001).

Here, the City's negligence claims are partially based on Piexon's breach of duty to train, instruct, and warn Bacolini (and, by extension, the City) of the inherently dangerous propensities, including the specific risk of eye penetration injury from short range JPX deployment. (TPC ¶ 51.) Piexon argues that it did not sell the JPX directly to the City, nor did it specifically train Officers Clark or any other City officer on the use of the JPX. (Fleischhauer Aff. ¶¶ 22, 24-25.) However, Piexon's Vice President of International Sales, Zac Almeis, attended the 2010 Trexpo West Police Expo in Long

Beach, California where he trained Bacolini and provided him with training materials. (Decl. Gazzo ¶¶ 12-14; Fleischhauer Aff. ¶ 18.) Bacolini, in turn, provided two live training sessions at the City's Police Department, exclusively relying on, referring to, and incorporating written training and user materials that Piexon provided. There is no indication that City officers were otherwise trained on the use of the JPX. Thus, the Court finds sufficient "but for" causation, as both the officers' training and the materials they received ultimately came from Piexon's contact with the forum state in training Bacolini.

3. Reasonableness Because City has satisfied the first two prongs, the burden shifts to Piexon to rebut the presumption that jurisdiction is reasonable by presenting a compelling case that specific personal

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jurisdiction would be unreasonable. Burger King, 471 U.S. at 477. To determine reasonableness, the Court considers: (1) the extent of purposeful interjection into the forum state; (2) the burden on the defendant; (3) the conflict with the sovereignty of the defendant's state; (4) the forum state's interest in the suit; (5) the most efficient judicial resolution of the dispute; (6) the convenience and effectiveness of relief for the plaintiff; and (7) the existence of an alternative forum. Id. at 475. All seven factors must be weighed and no single factor is dispositive. Ziegler v. Indian River Cnty., 64 F.3d 470, 475 (9th Cir. 1995).

The first factor is the extent of purposeful interjection into the forum state. "Even if there is sufficient 'interjection' into the state to satisfy the [purposeful availment prong], the degree of interjection is a factor to be weighed in assessing the overall reasonableness of jurisdiction under the [reasonableness prong]." Core–Vent Corp. v. Nobel Indus. AB , 11 F.3d 1482, 1488 (9th Cir. 1993) (holding modified by Yahoo!, 433 F.3d 1199 (9th Cir. 2006)) (brackets in original) (quoting Ins. Co. of N. Am. v. Marina Salina Cruz, 649 F.2d 1266, 1271 (9th Cir. 1981)). But see Roth, 942 F.2d at 623 (degree of interjection analysis and purposeful availment inquiry redundant). Here, again, Piexon's Vice President of International Sales's contacts are imputed to Piexon for purposes of determining jurisdiction. Sher, 911 F.2d 1357, 1362 (9th Cir. 1990) ("For purposes of personal jurisdiction, the actions of an agent are attributable to the principal."). The extent of Piexon's interjection into California has not been great, however. This factor does not weigh strongly in either direction.

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The second factor is the burden on the defendant in defending in the forum state. Where "a defendant 'has done little to reach out to the forum state,' the burden of defending itself in a foreign forum militates against exercising jurisdiction." Fed. Deposit Ins. Corp. v. British-American Ins. Co., Ltd., 828 F.2d 1439, 1444 (9th Cir. 1987) (quoting Ins. Co. of N. Am., 649 F.2d at 1272.). The burden of a defendant is increased when it is ordered to defend itself in the foreign legal system of another

country. Asahi Metal Indus. Co., Ltd. v. Superior Ct. of Cal. Solano Cnty., 480 U.S. 102, 114 (1987). The City argues that the burden on Piexon to litigate the suit in California is not heavy because "[i]n this era of fax machines and discount travel, requiring a [foreign] partnership to defend itself in California . . . would not be so unreasonable as to violate due process." Sher , 911 F.2d at 1365. The City contends that if an executive can fly to California to sell weapons and train individuals on their use, then it can require the same executive to fly to California for trial. Piexon counters that it is a resident and corporate citizen of Switzerland with few contacts in California and the fact that international flights exist should not be a consideration in weighing this defendant's burden. While the Court recognizes the burden of a Swiss company defending itself in the foreign courts of California, Piexon has not presented to the Court unique circumstances that would tip the scales more than any other foreign defendant. Nonetheless, the Court finds there is a burden on Piexon; thus, this factor weighs slightly against jurisdiction.

The third factor is the extent of conflict with the sovereignty of the defendant's state. As a principle matter, "a

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foreign state presents a higher sovereignty barrier than another state within the United States." Fed. Deposit Uns. Corp. , 828 F.2d at 1444. Thus, "great care and reserve should be exercised when extending our notions of personal jurisdiction into the international field." Asahi Metal Indus. , 480 U.S. at 115. The City argues that Piexon should not be permitted to "hide behind Swiss borders" while deriving commercial benefits from having a registered patent and trademark. The Court cannot find support and the City has not provided case law to support the connection between having a registered patent or trademark and a potential conflict with the sovereignty of the defendant's state. Therefore, this factor weighs against jurisdiction.

The fourth factor is the forum state's interest in adjudicating the dispute. "California maintains a strong interest in providing an effective means of redress for its residents who are tortiously injured." Core–Vent , 11 F.3d at 1489 (internal quotation omitted). The City argues that California has a strong interest in ensuring the safety of its citizens, especially since Piexon's products, including the JPX, are ultimately sold to California law enforcement agencies. Further, the JPX is a potentially dangerous weapon; Piexon could reasonably have foreseen that its alleged failure to provide adequate training to Bacolini on proper use of the device might result in serious injury to California residents where an inadequately trained law enforcement officer deployed the weapon in a way that caused harm. This favor weighs in favor of jurisdiction.

The fifth consideration is the efficiency of the forum. "In evaluating this factor, we have looked primarily at where the

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witnesses and the evidence are likely to be located." Core–Vent , 11 F.3d at 1489. Piexon argues that efficient resolution of the product defect claim is not dependent on the adjudication of the underlying civil rights action. However, the alleged failure to warn of the dangerous propensities of the JPX claim will rely heavily on witnesses and evidence located in California, specifically forum-resident Bacolini and documents pertaining to the training received. Further, evidence as to the extent of damage caused by any product defect or inadequate training is located in California, where the underlying injury giving rise to this action occurred. Thus, this factor weighs in favor of jurisdiction. The sixth factor is the plaintiff's interest in convenient and effective relief. Sinatra, 854 F.2d at 1200. "Neither the Supreme Court nor our court has given much weight to inconvenience to the plaintiff." Core-Vent , 11 F.3d at 1490. It will clearly be more convenient for the City to try the case here, but City has not demonstrated that effective relief would not be available elsewhere. The final factor is the availability of an alternate forum. The City effectively argues it is Piexon's burden to prove the unavailability of a viable alternative forum. The City is mistaken, as plaintiff bears the burden of proving the unavailability of an alternate forum. Fed. Deposit Ins. Corp., 828 F.2d at 1445. Again, there is no proof of foreign law on whether a Switzerland forum is available. These last two factors, therefore, weight slightly against jurisdiction.

On balance, the Court finds that Piexon has not met its burden to show that it is unreasonable to require it to litigate this action in the forum state of California. Piexon purposefully

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interjected itself into California by training a California resident on the use of the JPX, and the burden on Piexon in defending the case in California has not been shown to be unusually high as compared with other foreign defendants. Further, considerations of judicial efficiency, the interests of the forum state, and the City's interests weigh strongly in favor of having the case tried in a California court. IV. Conclusion

For the foregoing reasons, the Motion is DENIED.

IT IS SO ORDERED.

Dated: December 8, 2014

DEAN D. PREGERSON United States District Judge

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