

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

**TANISHA WHITE**

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**CASE NO.**

**VS.**

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**JURY TRIAL DEMANDED**

**THE CITY OF WINNFIELD,**

\*

**JUSTIN CURRY, CHUCK CURRY**

\*

**CHIEF JOHNNY RAY CARPENTER,**

\*

**JOHN DOE, XYZ INSURANCE**

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**COMPANY, PIEXON USA INC.**

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**COMPLAINT WITH JURY DEMAND**

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Tanisha White, a person of full age and of majority, resident and domicile of Winn Parish, respectfully represent the following:

**PARTIES**

1.

Made Defendants herein are the following:

- a) THE CITY OF WINNFIELD, a local government entity and body politically created by statute, being a municipality, and political subdivision of the State of Louisiana, but not an agency, or department, or arm of the State of Louisiana (hereinafter sometimes referred to as "City,"), and owns, operates, manages, directs, and controls the Winnfield Police Department (hereinafter sometimes referred to as "WPD"), which employs Defendants Justin Curry, Chuck Curry, and Johnny Carpenter;
- b) Justin Curry, was at all relevant times to this complaint an officer in the WPD, is a person of full age and of majority, domiciled in Winn Parish. He is sued in his individual capacity;
- c) Chuck Curry, was at all relevant times to this complaint an officer in the WPD, is a person of full age and of majority, domiciled in Winn Parish. He is sued in his individual capacity

- d) CHIEF JOHNNY RAY CARPENTER, is and was at all relevant times the Chief of WPD, a person of full age and majority domiciled in Winn Parish. He is sued in both his individual and official capacity;
- e) XYZ INSURANCE COMPANY, an insurance company authorized to do, and doing business in the State of Louisiana providing general liability coverage and/or Excess of Loss Coverage for Chief Carpenter, Officer Justin Curry, Officer Chuck Curry and/or City of Winnfield and the Winnfield Police Department for any and all acts and damages occurring from this incident and all EXCESS DAMAGE CLAIMS, incurred in the City of Winnfield on behalf of all named Defendants.
- f) At all times relevant to this complaint, all defendants within the City of Winnfield and the Winnfield Police Department acted in concert and conspiracy and are jointly and severally responsible for the harms caused to plaintiff.
- g) At all times to this Complaint, the City of Winnfield, the Winnfield Police Department, and their named employees herein acted under the color of state law.
- h) PIEXON USA, INC., a subsidiary of the foreign corporation Piexon, Inc., domiciled in Stark County, State of Ohio, with a principle place of business in Stark County, State of Ohio.

#### **JURISDICTION AND VENUE**

2.

The United States District Court has jurisdiction over the subject matter of this complaint under 42 U.S.C. 1983 and 28 U.S.C. 1331, 1343(a)(3), and 1367(a).

3.

The Western District of Louisiana is the appropriate venue to bring this complaint, because the facts that give rise to Plaintiff's claims all took place within the Middle District of Louisiana.

#### **FACTUAL ALLEGATIONS SURROUNDING NOVEMBER 5, 2018**

4.

On November 5, 2018, Winnfield Police Officer Justin Curry was called to a residence located at 508 North Pineville Street in Winnfield, LA 71483.

5.

According to the Louisiana State Investigation Report, WPD was called to the residence at the request of Katherine Mosley.

6.

While responding to the Pineville St. residence, Mr. Justin Curry came into contact with Ms. Tanisha White, a military veteran.

7.

According to the Louisiana State Investigation Report, during the course of Justin Curry's contact with Ms. White, Officer Curry fired his WPD issued JPX Pepper Spray Gun at Ms. White while standing within five (5) feet of her. Ms. White was struck inside and underneath her right eye.

8.

According to the Report, Ms. White collapsed to the ground as a result of being shot with the JPX Pepper Spray Gun in the eye.

9.

While Ms. White laid on the ground in need of immediate medical attention and suffering from the debilitating, damaging effects of being shot in the eye, Officer Justin Curry chose to call his father, Lt. Chuck Curry to the scene instead of an ambulance.

Medical attention and care for Ms. White were unnecessarily and inappropriately delayed while Office Justin Curry waited for Lt. Chuck Curry to arrive on the scene.

10.

At this point, Officer Justin Curry and Lt. Chuck Curry showed further indifference toward Ms. White when they placed her in the back of a WPD police vehicle and drove her to the hospital instead of calling an ambulance. This action constituted another delay and prevented Ms. White from receiving necessary immediate critical care.

11.

Ms. White was not armed with a weapon when she was shot by Officer Justin Curry. Ms. White was not committing a crime when she was shot by Officer Justin Curry. Ms. White was not charged with any criminal offense resulting from the November 5, 2018 incident.

12.

Thus, we conclude that Officer Justin Curry, without any legal provocation or justification, shot his department issued JPX Pepper Spray Gun at Ms. White. Further, Officer Curry shot his weapon in a reckless manner by aiming and firing the JPX Pepper Spray Gun at Ms. White's face.

13.

As a result of the actions of the WPD Officers on the evening of November 5, 2018, Ms. White permanently lost the ability to see out of her right eye.

14.

The JPX Pepper Spray Gun is manufactured by Piexon USA, Inc. and/or its parent company Piexon, Inc.

15.

The JPX Pepper Spray Gun shoots a pepper spray projectile at 400 miles per hour.

16.

According to the JPX Pepper Spray Gun manual, one should not fire the weapon unless they are at least five (5) feet from the subject.

**FACTUAL ALLEGATIONS SURROUNDING EMPLOYMENT, TRAINING,  
SUPERVISION, AND DISCIPLINE OF DEFENDANT JUSTIN CURRY**

17.

The City of Winnfield utilizes and employs its own police department, known as the Winnfield Police Department (WPD). The Chief of WPD at all relevant times before, during, and after this incident was Chief Johnny Carpenter, making him the responsible decisionmaker and policymaker for the WPD.

18.

The conduct sued upon herein occurred in the City of Winnfield, and in the exclusive territorial jurisdiction of the City of Winnfield Police Department.

19.

In Chief Carpenter's official capacity, he was and is responsible for adopting, implementing, promulgating, and enforcing policies, customs, and practices pertaining to making arrest and preserving peace in the City of Winnfield.

20.

Additionally, Chief Carpenter is responsible for the screening, hiring, disciplining, training, supervising, and the retraining of Winnfield Police Officers to ensure each police officer was and is qualified and properly trained to perform the duties and functions of a peace officer, including making arrests, preserving the peace, and the constitutional use of force.

21.

Defendants Carpenter, Chuck Curry, and the City of Winnfield were all aware, or should have been aware, of prior incidents involving the use of force, specifically using a taser and other "non-lethal" use of force mechanisms, as the WPD can come under fire for a tasing incident that caused the death of a Winnfield citizen.

22.

Based on the extreme misconduct of Defendant Justin Curry, and upon information and belief, Defendants Carpenter, Chuck Curry and the City of Winnfield did not properly examine and scrutinize the background of Officer Justin Curry. This lack of proper background scrutiny is

evident due to the fact that Officer Curry has a history of “unnecessary use of force” based on a grievance filed during his employment at the Winn Correctional Center.

23.

Based on the extreme misconduct of Defendant Justin Curry, and upon information and belief, Defendants Carpenter, Chuck Curry, and the City of Winnfield did not properly train, supervise, and/or discipline Defendant Justin Curry with regard to proper police practices, including adequate use of force policies, and police-issued weapons training. Officer Justin Curry is a part-time officer and is not subjected to the same training as full-time officers within the department, yet he is equipped with the same “use of force tools.”

24.

Upon information and belief, in willful, reckless, and callous disregard to Ms. White’s rights under federal and state law, Defendants Carpenter, Chuck Curry, and the City of Winnfield did not have a use of force policy in place for the City of Winnfield at all relevant times.

25.

Upon information and belief, Officer Justin Curry received preferential treatment because his father, Chuck Curry, was a lieutenant in the WPD.

26.

Defendant Justin Curry’s extreme misconduct was a product of this environment and was undertaken pursuant to de facto policies, practices, and/or customs—both written and unwritten—

of the WPD and the City of Winnfield. Defendants Carpenter, Chuck Curry, and City of Winnfield are guilty of the following wrongful acts, including but not limited to:

1. Failing to properly hire, supervise, and train WPD Officers;
2. Failing to reprimand and discipline WPD Officers who engage in misconduct;
3. Failing to retrain and/or otherwise control WPD Officers who engage in excessive force and/or unjustified use of force against civilians;
4. Failing to follow appropriate policies and procedures to address and correct repeated use of excessive force;
5. Failing and inadequately investigating complaints and allegations of excessive force and other misconduct by WPD Officers;
6. Failing to retrain and otherwise control WPD Officers who engage in excessive force and unjustified use of deadly force;
7. Tacitly approving of WPD Officers using their power and position to interfere with other citizens' rights;
8. As a matter of both policy and practice the City of Winnfield and the WPD facilitating this type of misconduct by failing to protect civilians from reckless indifference of Defendant's City agents, servants, and employees in its Police Department; and
9. Allowing the practice and custom of a "police code of silence," resulting in WPD Officers refusing to report instances of police misconduct of which they are aware.

27.

As a direct and proximate result of the conduct of Defendants, Plaintiff suffered and continues to suffer extraordinary damages, including permanent physical injury and deformity, the prolonged loss of liberty, emotional distress, and trauma, loss of the enjoyment of life, psychological harm, and pain and suffering, some of which may be permanent, as well as financial losses.

## **CAUSES OF ACTION**

### **Count I**



**Plaintiff v. Defendant Justin Curry, Defendant Carpenter, and Defendant Chuck Curry  
Federal Constitutional Claims**

28.

The actions of Defendant Justin Curry, Defendant Carpenter, and Defendant Chuck Curry violated Plaintiff's rights under the Fourth and Fourteenth Amendments the unlawful use of force.

**Count II**

**Plaintiff v. Defendant Justin Curry, Defendant Carpenter, and Defendant Justin Curry  
Federal Constitutional Claims**

29.

The actions of Defendant Justin Curry, Defendant Carpenter, and Defendant Chuck Curry violated Plaintiff's rights under the Fourth and Fourteenth prohibiting unlawful seizure.

**Count III**

**Plaintiff v. Defendant Chuck Curry and Defendant Carpenter  
Federal Constitutional Claims**

30.

The actions or inactions of Defendant Justin Curry and Defendant Chuck Curry violated Plaintiff's rights under the Fourth and Fourteenth Amendments to the U.S. Constitution, directly or proximately causing the injuries suffered by Plaintiff due to Defendant Carpenter and Defendant Chuck Curry's failure to train, supervise, and discipline Defendant Justin Curry.

31.

The actions or inactions of Defendant Carpenter and Defendant Chuck Curry violated Plaintiff's rights under the Fourth and Fourteenth Amendments to the U.S. Constitution directly or proximately, causing the injuries suffered by Plaintiff by creations of or failure to correct unconstitutional policies, practices, patterns, and/or customs.

**Count IV**

**Plaintiff v. Defendant City of Winnfield  
Federal Constitutional Claims**

32.

The violations of Plaintiff's constitutional rights under the Fourth and Fourteenth Amendments to the U.S. Constitution, Plaintiff's damages, and/or the conduct of the individual Defendants were directly and proximately caused by the actions and/or inactions of the Defendant City of Winnfield, which has encouraged, tolerated, ratified, and has been deliberately indifferent to the following policies, patterns, practices, and customs, and to the need for more or different training, supervision, investigation, or discipline in the areas of:

- a. Legal cause to stop, detail, and/or arrest a citizen;
- b. Legal cause to criminally charge a citizen;
- c. Use of force by police officers;
- d. Police officers' duties and responsibilities to engage in proper investigative techniques;
- e. Failing to properly investigate allegations prior to issuing arrest warrants;
- f. The proper exercise of police powers, including not limited to the making of an arrest, the use of force, and the bringing of criminal charges;

- g. Developing policies allowing untrained, part-time officers to carry weapons that can cause great bodily injury;
- h. Failure to develop adequate use of force policies;
- i. Failure to train all officers, including part-time ones, about adequate use of force policies;
- j. Failure to train part-time WPD officers about how to handle department issued weapons that can cause great bodily harm;
- k. The monitoring of officers whom it knew or should have known were suffering from emotional and/or psychological problems that impaired their ability to function as officers;
- l. The failure to identify and take remedial or disciplinary action against police officers who were the subject of prior civilian or internal complaints of misconduct;
- m. Failing to retrain and/or otherwise control police officers who engage in excessive force and/or unjustified shooting against civilians;
- n. Failing to follow appropriate policies and procedures to address and correct repeated use of excessive force;
- o. Failing to investigate, or inadequately investigating complaints and allegations of excessive force and other misconduct by members of the WPD;
- p. Failing to retrain and otherwise control members of the WPD who engage in excessive force and unjustified use of force;
- q. The hiring and retention of officers who are unqualified for their employment positions;

- r. Police officers' use of their status as police officers to employ the use of force or to achieve ends not reasonably related to their police duties;
- s. The failure of police officers to follow established policies, procedures, directive, and instructions regarding arrests, use of force, and institution of criminal charges under such circumstances as presented by this case;
- t. The failure to properly sanction or discipline officers who are aware of and conceal and/or aid and abet violations of constitutional rights of citizens by other Winnfield police officers;

—As a matter of both policy and practice the City of Winnfield and the WPD facilitating this type of misconduct by failing to protect civilians from reckless indifference of Defendant's City agents, servants, and employees in its Police Department;

#### **Count IV**

#### **Plaintiff v. Defendants Justin Curry, Carpenter, Chuck Curry, and City of Winnfield State Law Claims**

33.

Ms. White alleges that the Defendants are responsible and liable under Louisiana Code of Civil Procedure Articles 2315 and 2317, which requires that every act whatever man that causes damage obligates him by whose fault it is to repair it; and individuals are responsible not only for damage occasioned by their own acts, but also for damage caused by acts of persons for whom the individual is answerable, or of the thing which the individual has in his custody.

34.

**The actions and/or inactions of Defendant Justin Curry, under the law of the State of Louisiana, constitute the torts of:**

- a. Aggravated Battery;
- b. Aggravated Assault;
- c. Negligent Injuring;
- d. Intentional Infliction of Emotional Distress;
- e. Negligent Infliction of Emotional Distress;
- f. Abuse of Process.

35.

**The actions and/or inactions of Defendant Chuck Curry, under the law of the State of Louisiana, constitute the torts of:**

- a. Aggravated Battery;
- b. Aggravated Assault;
- c. Negligent Injuring;
- d. Intentional Infliction of Emotional Distress;
- e. Negligent Infliction of Emotional Distress;
- f. Negligent Hiring;
- g. Negligent Retention;
- h. Negligent Supervision;
- i. Abuse of Process.

36.

**The actions and/or inactions of Defendants Carpenter and City of Winnfield, under the law of the State of Louisiana, constitute the torts of:**

- a. Aggravated Battery;
- b. Aggravated Assault;
- c. Negligent Hiring;
- d. Negligent Injuring;
- e. Intentional Infliction of Emotional Distress;
- f. Negligent Infliction of Emotional Distress;
- g. Negligent Retention;
- h. Negligent Supervision;
- i. Abuse of Process

**Count V**

**Plaintff v. Piexon USA, Inc. for Products Liablilty under the LPLA**

37.

Ms. White avers that Piexon USA, Inc. should be held liable under Louisiana Revised Statute 9:2800.51, the Louisiana Products Liability Act (LPLA). The LPLA states that a company can be held liable if any one of the following accurs:

- An unreasonable danger was caused by the construction or composition of the product;
- An unreasonable danger is created by the product's design;
- The manufacturer failed to provide an adequate warning of the dangers posed by the product; or

- The product does not conform with the manufacturer's express warranty about the product.

38.

Plaintiff alleges that the composition of the product composes an unreasonable danger by shooting a projectile of pepper spray at an unreasonable speed; and that unreasonable speed lead to the loss of sight in her eye.

39.

Plaintiff alleges that the manufacturer warning that the weapon should not be used within five (5) feet of the target is far too close and could cause catastrophic damage to the target, as it did to her.

40.

Piexon USA, Inc.'s product, the JPX Pepper Spray Gun, is in clear violation of the LPLA Act and as such, Piexon USA, Inc. should be held liable in this matter for all compensatory damages allowed under the law.

#### **JURY TRIAL DEMAND**

41.

Ms. White requests a trial by jury.

#### **PRAYER FOR RELIEF**

42.

Ms. White respectfully requests:

- a. Compensatory damages as to all Defendants;

- b. Punitive damages as to Defendants Justin Curry, Carpenter, and Chuck Curry;
- c. Reasonable attorneys' fees and costs as to all Defendants;
- d. Such other and further relief as may appear just and appropriate

WHEREFORE, Plaintiff, Ms. Tanisha White, prays that a copy of the above petition is served upon

including attorney's fees and costs.

/s/ Ronald S. Haley, Jr.

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