



# NEWS BULLETIN

JM EAGLE™  
MAY 10, 2010

## **JM EAGLE MOVES TO DISMISS BASELESS LAWSUIT**

### **WORLD'S LARGEST MAKER OF PLASTIC PIPE SAYS COMPLAINT LACKS EVIDENCE AND LEGAL GROUNDING**

JM Eagle, the world's leading manufacturer of plastic pipe, asked a federal judge to dismiss a lawsuit filed by a fired ex-employee because it lacks any evidence the company's pipe was substandard and failed to achieve basic legal thresholds for success.

In addition, JM Eagle filed with the court a motion to strike certain irrelevant and objectionable references in the complaint to the ethnicity and nationality of individuals connected with the company (see last bullet below). The plaintiff's law firm, Phillips & Cohen, was provided an opportunity to remove the offending references themselves, as the law requires, but declined to do so.

JM Eagle asserted its pipe has always been of the highest quality as verified by regular, independent tests and constant internal inspections. In fact, according to the motion, the plaintiff's did not connect any of the few instances of claimed pipe failures to sales to governmental entities or even allege the problems were the result of fraud.

As proof of its confidence, the company recently placed an unprecedented 50-year warranty on its products for manufacturing defects – including for pipe already in the ground for decades.

The company's motion asserted that the lawsuit's accusations are unfounded. "This is a case of a dishonest and disgruntled former employee cobbling together incorrect testing standards and baseless insinuations into an inflammatory fraud complaint," the motion states. "These fraud allegations are meritless and malicious."

The lawsuit "fails to identify any pipe sold by JM Eagle that failed to meet contract requirements, specifications, or standards. When pieced together, the allegations do not show that any non-conforming product was received by any particular government customer, much less that any has worn out prematurely," the motion adds. "The allegations boil down to insinuations, misinterpretations, unsupported conclusions, and disagreements over technical matters."

The motion also notes that the complaint, though still pending in federal district court here, has already begun to unravel. "One of Relator's primary witnesses showcased in the complaint, Brian Wang (a former plant manager for 22 years) gave a sworn statement claiming the falsity of the quotes attributed to him," the motion states. "Not surprisingly, the Federal Government and the States of California and Florida have already declined to intervene in this ill-conceived complaint (and others are expected to follow)."

JM Eagle asserts in the motion:

# The lawsuit “does not identify any pipe JM Eagle sold that actually failed to meet contract requirements, specifications, or standards, much less that JM Eagle knowingly sold such pipe to any government customer.”

# The lawsuit wrongly asserts that “cost cutting measures” led to JM Eagle knowingly selling non-conforming product. In fact, there is nothing wrong with cutting costs. It should be the goal of every company to operate as efficiently as possible.

# Disagreements with respect to manufacturing and testing practices are insufficient as a legal argument to establish fraud.

# More to the point, all pipes produced are carefully tested and approved. “All of the JM Eagle pipe at issue in this lawsuit has been continuously certified to American Water Works Association (“AWWA”) standards by renowned independent organizations such as Underwriters Laboratories (“UL”) and NSF International (“NSF”). These organizations conduct random, unannounced audits and inspections at each of JM Eagle’s twenty-two plants located around the country, and have done so for the entire time period at issue in this case. In an annual period, JM Eagle production facilities are visited by close to 450 unannounced third party auditors. Further, the compound used exclusively by JM Eagle (“JM90”) has been continuously certified for use in PVC pipe by the Plastics Pipe Institute (“PPI”),” the motion states. “The result is an overall claims rate over the past ten years of less than one-tenth of one percent (the majority of which are installation related).”

# Many of the states mentioned in the suit did not have applicable fraud statutes at the time of the alleged problems at JM Eagle. Therefore, according to the motion, the lawsuit should be dismissed because laws cannot be applied retroactively.

\* Results of recent tests by the independent Jana Laboratories confirm the quality and reliability of JM Eagle PVC pressure pipe - both currently and during the period covered by the lawsuit. The lab conducted the tests on pipe from the same batch provided to the federal government for its own inquiry. The company’s pipe has been certified by the industry-standard certification bodies NSF International and UL to meet all long-term strength requirements. In addition, the number of claims against the company’s pipe over the last 10 years was miniscule - at a rate of less than one-tenth of one percent and most of those claims related to installation or other non-manufacturing errors.

\* In a serious blow to the central claim in the lawsuit (and as alluded to above), one of the plaintiff’s key witnesses denied in a sworn statement ever saying that JM Eagle intentionally compromised the quality of its pipe. After reading quotes from the Second Amended Complaint that were falsely attributed to him by Phillips and Cohen, Brian Wang, a long time plant manager, gave a sworn affidavit claiming the falsity of the quotes. Wang denied under oath that JM ever sacrificed pipe quality by using cheaper ingredients, speeding up production or failing to replace parts on extruders. Wang, who is the most senior JM Eagle employee listed in the lawsuit’s Second Amended Complaint, worked for J-M Manufacturing - now JM Eagle - from 1984 to June 2006, including as a plant manager at three of the company’s 22 plants.

\* JM Eagle has spent more than \$350 million in the last 15 years to deploy the most modern manufacturing practices and equipment available to ensure that its products set the standard for superior quality in the plastic-pipe industry. The company recently announced a capital-improvement project budgeted at \$20 million to further improve its manufacturing facilities this year alone.

- \* JM Eagle recently announced an unprecedented 50-year warranty against manufacturing defects for its pipe products. This warranty-unmatched by any other pipe manufacturer-is a significant first step toward rebuilding the nation's crumbling infrastructure and proof the company stands 100 percent behind its pipe.
- \* Vendors and suppliers providing various raw materials and equipment have issued letters verifying the quality of the products used by JM Eagle in the manufacture of its plastic pipes. In fact, these letters confirm that all plastic pipe manufacturers use essentially the same standards-compliant raw materials to make their products as JM Eagle. This is in direct opposition to claims made in the lawsuit, which alleges that JM Eagle used inferior or non-standard materials in order to trim costs.
- \* There is clear evidence that John Hendrix, the fired ex-employee who brought the lawsuit, was also the architect of a kickback scheme to defraud JM Eagle. The company has a sworn affidavit confirming that he offered to inflate a claim in return for money to be sent directly to his home. Also, after Hendrix was fired, he was caught impersonating a JM Eagle employee in order to obtain from a lab proprietary test results on the company's pipe, using his personal email address and offering to pay with his personal credit card.
- \* A diverse coalition of civil rights and community organizations, including the Anti-Defamation League, the Mexican American Legal Defense and Education Fund and the

Asian Pacific American Legal Center (APALC) cosigned a letter expressing outrage over racially insensitive language contained in the complaint about the ethnicity and nationality of JM Eagle's employees and leaders. APALC also sent a letter to Phillips & Cohen's named partners demanding that they withdraw the irrelevant and offensive references from the lawsuit immediately.

- \* In a condescending and insulting reply to the request, Phillips & Cohen refused to drop the needless race-baiting language. Its insensitive refusal to jettison the pejorative references speaks volumes about the overall weakness of Phillips & Cohen's case against JM Eagle.
- \* The signatories to the letter are: John Chen, Chairman, Committee of 100; Craig Ishii, Regional Director, Pacific Southwest District, Japanese American Citizens League; Stewart Kwoh, President and Executive Director, Asian Pacific American Legal Center; Munson A. Kwok, Immediate Past National President, Chinese American Citizens Alliance; Don Nakanishi, Professor Emeritus and Former Director of UCLA Asian American Studies Center; Connie Rice, Co-Director, Advancement Project; Thomas Saenz, President and General Counsel, Mexican American Legal Defense and Educational Fund; Amanda Susskind, Pacific Southwest Regional Director, Anti-Defamation League; and Arturo Vargas, Executive Director, National Association of Latino Elected and Appointed Officials.

*For further details about this qui tam case, please visit [www.jmeagle.com/qualityassurance](http://www.jmeagle.com/qualityassurance).*