

JM Eagle case takes an odd turn

By [Don Loepp](#) on April 29, 2010 4:01 PM ET | [No Comments](#) | [No TrackBacks](#)

Can a lawsuit be racially insensitive?

The whistle-blower lawsuit over the quality of plastic pipe extruded by JM Eagle took another unexpected twist today, when the company issued a news release saying that several "major minority-rights organizations, including the Anti-Defamation League and Mexican American Legal Defense and Education Fund," are expressing outrage over "offensive and needless ethnic references" in the lawsuit filed by Washington law firm Phillips & Cohen LP.

The complaint boils down to this: the suit contains "racially insensitive" language, needlessly pointing out the nationality of company executives, and implying that workers and managers from Taiwan were less qualified.

[The news release](#) says...

Led by the [Asian Pacific American Legal Center \(APALC\)](#), the coalition of community and legal organizations have cosigned a letter demanding that the racially insensitive language about the nationality of JM Eagle's employees and leaders be withdrawn from the complaint immediately.

"The Phillips & Cohen lawsuit is baseless in its facts about [JM Eagle](#), but, worse, it is also rife with non-germane inferences about Asians," said Neal Gordon, vice president/marketing of JM Eagle. "Phillips & Cohen's lawsuit is not only a fabrication, but it also plays the race card in an insulting way. The language should be immediately removed."

The whistle-blower lawsuit was filed in U.S. District Court in Los Angeles in 2006, but since Feb. 11, when [Phillips & Cohen](#) issued a news release disclosing the existence of the suit, the case has been playing out in the media.

Previous stories included:

- A [disclosure](#) that a former JM Eagle plant manager denied that he conspired to sacrifice quality by using cheaper ingredients, speeding up production or failing to replace parts on extruders.
- An announcement that JM Eagle would offer announced an "unprecedented" 50-year warranty on its water and sewer pipe.
- An [allegation](#) that the key whistle-blower in the case offered a kickback deal to a pipe buyer.

The newest twist is the result of a letter from the Asian Pacific American Legal Center of Southern California, which states: "It appears that the plaintiff in the case and his attorneys believe they stand to gain by repeatedly interjecting Asian ethnicity and nationality to describe various entities and individuals, even though ethnicity and nationality have no relevance whatsoever."

Examples of racial insensitivity cited by APALC include:

- The lawsuit claims that JM Eagle hired "Taiwanese nationals" with "significantly less experience and fewer credentials" than previous employees with no reference to their educational background or work experience. This implies that solely based on their nationality they are less qualified than previous employees.
- The lawsuit goes to great lengths to say that Formosa Plastics Corporation, U.S.A., "is largely controlled by the Wang family of Taiwan." The ethnicity and nationality of the family that owns Formosa has nothing to do with the lawsuit.

- The lawsuit states that JM Eagle's Director of Production is from Taiwan. The ethnicity and nationality of JM Eagle's Director of Production is not relevant.
- The lawsuit includes the following line in the Second Amended Complaint: "Until approximately 2003, Formosa owned and operated a boarding house near its Livingston, New Jersey headquarters to accommodate the large number of Taiwanese employees... who could not otherwise afford to live in the greater New York Metropolitan area." This information is incorrect, but, more important, immaterial to the suit. It is clearly meant to stir resentment against employees of Asian descent and is intended to incite the biases of those who hate the idea of "a large number of Taiwanese employees" moving into their neighborhoods.

If this case ever goes to trial, it could be quite an interesting battle.