

JM Eagle pleased with rulings on whistle-blower case

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LOS ANGELES (Dec. 10, 10:45 a.m. ET) – PVC pipe extruder JM Eagle is claiming a major victory in its fight against a whistle-blower lawsuit – which company officials say could result in the dismissal of hundreds of claims.

JM Eagle also praised a court order to remove from the lawsuit what the company called “racially sensitive and derogatory language” about Taiwan and Taiwanese people.

But Phillips & Cohen LLC, a Washington law firm that represents the whistle-blower, former JM employee John Hendrix, fired back to criticize the pipe company’s “spin on the case.” Several states and local governments have joined the suit.

The legal war of worlds continued in the well-publicized case, as both sides issued press releases commenting on a ruling filed Dec. 6 by U.S. District Judge George Wu.

Whistle-blower laws apply to fraud committed against the government. In his lawsuit, which was unsealed in February in U.S. District Court in Los Angeles, Hendrix charges JM Eagle knowingly made substandard PVC water and sewer pipe — allegations denied by JM Eagle.

According to JM Eagle spokesman Marcus Galindo, the judge’s dismissal of claims from “private developer transactions” effectively bars claims in cases where private-sector firms buy JM Eagle’s pipe for housing tracts, retail centers or other developments, then deed the utilities over to a government entity. The ruling effectively limits claims to governments that buy JM Eagle pipe, he said.

In another ruling, Judge Wu said he would not allow states, municipalities, water districts and other governmental bodies to file “complaints in intervention,” or claims under state common law, including negligent misrepresentation and breach of contract. The judge said there are legal questions about whether a federal-court judge can allow such claims.

Adding the extra causes of action under state common law would cause an already complicated whistle-blower suit, Wu wrote, “to morph into a massive overwhelmingly state-law-based litigation.

Both sides jumped on legal decisions. Phillips and Cohen called the complaints-in-intervention issue “a procedural ruling” that does not affect the central lawsuit. “JM Eagle’s claim that the judge’s decision is a victory is ridiculous,” said lawyer Mary Inman.

Neal Gordon, JM Eagle’s vice president of marketing fired back: “These rulings significantly gut this bogus lawsuit.”

Judge Wu also granted JM Eagle’s motion to strike language in the suit about the Taiwanese ethnicity of the company owners. He removed two references to Taiwanese management, plus a paragraph that alleged that, until 2003, a large number of JM’s Taiwanese employees lived in a boarding house near its former headquarters in Livingston, N.J., because they “could not otherwise afford to live in the greater New York metropolitan area on their modest JM salaries.”

That language sparked criticism from minority-rights organizations earlier this year, including the Asian Pacific American Legal Center, the Anti-Defamation League and the Mexican American Legal Defense and Education Fund. In a letter, leaders of the groups said race and ethnicity have nothing do with the case and the allegation “seems designed to stir anti-immigrant resentment towards a particular ethnic group.”