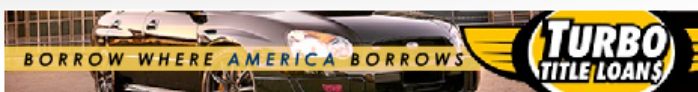


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**In the Spotlight**

THURSDAY, FEBRUARY 18, 2010 2:36:00 PM

**AG Brown, feds sitting out whistleblower suit against pipemaker**

BY JOHN O'BRIEN

LOS ANGELES (Legal Newsline) - Attorneys for pipemaker JM Eagle said Thursday that a whistleblower lawsuit against it is meritless, offering decisions made by California Attorney General Jerry Brown and the federal government not to intervene as evidence.



Brown

Attorneys at McDermott Will & Emery were responding to press coverage of the suit, which was filed in 2006 by a former engineer but not unsealed until recently. The federal government has the option to intervene in whistleblower, or *qui tam*, lawsuits.

Lanny Davis, who is representing JM Eagle, said Brown was the only state attorney general who took the time to meet with the company's attorneys and review the facts of the case.

"The allegations made by the plaintiff in this case... are totally and utterly baseless," Davis said. "There were no false claims, and a court of law and presumably a judge or jury will end up indicating my statement."

Davis said the federal government decided not to intervene after 3 1/2 years of investigating the allegations, which say JM Eagle sold substandard pipes to governmental entities. The states of Nevada, Tennessee, Virginia and Delaware are intervening, as well as dozens of California municipalities.

Davis said the states did not reach out to the company before deciding to intervene.

"One can speculate why these interventions occurred," Davis said.

"In my experience as a plaintiffs and defense attorney in the filing or defending of *qui tam* actions, I can give a reason in my experience - it's called a free ride. It's called entering a case with nothing to lose and maybe a small percentage of a chance that the plaintiff might recover or there will be a settlement, and maybe some money will land on the doorsteps of the hard-pressed municipalities in California or on the doorsteps of these AGs."

Also Thursday, Phillips & Cohen said JM Eagle is mischaracterizing the federal government's decision. The firm is representing the whistleblower, Virginia, Tennessee and 25 of the municipalities and water districts.

The firm said JM Eagle President Walter Wang claimed his company provided "definitive proof" that it is not guilty of the allegations in a letter to customers, and that "the truth has set (JM Eagle) free at the federal level."

The firm quoted a letter from the feds dated Feb. 8.

"The (federal) government's decision to decline intervention at this time should not be construed as a statement about the merits of the case," the letter said.

"Indeed, the government retains the right to intervene at a later date upon a showing of good cause. Moreover, although the government is not currently a litigant, it remains the real party in interest, and is entitled to the majority of any damages and penalties recovered on its behalf."

Florida Attorney General Bill McCollum also weighed in, refusing to intervene in the case. McCollum is running for governor this year.

Florida was one of seven states initially involved in the lawsuit in 2006.

"After we looked at it, we concluded the same thing (as the federal government)," McCollum said. "So we chose not to join in this one."

McCollum had been encouraged by state Sen. Dan Gelber, a Democratic attorney general-hopeful, to remain an intervenor.

Whistleblower John Hendrix was an engineer for J-M Manufacturing's product assurance division in New Jersey. J-M was JM Eagle's corporate predecessor.

Hendrix was fired less than two weeks after writing a memo that said the pipes' tensile strength was substandard, Phillips & Cohen said.

Davis said JM Eagle's pipes are subject to random evaluations from national certification agencies and they have met those agencies' quality standards.

From Legal Newsline: Reach John O'Brien by [jobrienwv@gmail.com](mailto:jobrienwv@gmail.com).

Filed Under: none

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Tuesday, February 23, 2010

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