



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

FOR IMMEDIATE RELEASE: February 11, 2010

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Four States and 43 California localities join whistleblower to sue Formosa Plastics and JM Eagle for inferior PVC pipe used in water and sewer systems

LOS ANGELES, CALIFORNIA, February 11, 2010 – Nevada, Virginia, Delaware, Tennessee, San Diego, Sacramento, San Jose, the Los Angeles Department of Water and Power and 39 other California municipalities and water districts have joined a whistleblower lawsuit seeking millions of dollars in damages from JM Eagle and its former parent company, Formosa Plastics Corp. (USA), for supplying their water and sewer systems with pipes that JM knew were substandard.

As a result, those PVC (polyvinyl chloride) pipes will have to be replaced sooner than expected -- a budget nightmare for cash-strapped states, cities and local agencies. It is also more likely that the pipes will leak or break.

The ["qui tam" \(whistleblower\) lawsuit](#) was unsealed earlier this week and announced today after the states and other government entities investigated the allegations and elected to intervene in the case, which is filed in federal district court in Los Angeles.

“The decisions by so many states, cities and water districts to join this case show just how serious these allegations are,” said Mary A. Inman, a San Francisco attorney with Phillips & Cohen LLP, which represents the whistleblower, the Commonwealth of Virginia, the State of Tennessee and 25 California cities and water districts. “With government entities struggling to meet their budgets, it’s particularly important for them to recover their losses from any fraud.”

As a result of the investigation into the quality of PVC pipe that JM Eagle has provided, the Nevada Department of Public Works, the cities of San Diego and Sparks, Nevada, as well as at least three water districts in Nevada and California (Truckee Meadows Water Authority, North Marin Water District and Alameda County Water District) have removed JM products from their approved-products lists for purchases.

The qui tam lawsuit is posted at

<http://admin.phillipsandcohen.lawoffice.com/CM/NewsSettlements/US%20ex%20rel%20Hendrix%20v.%20JM%20-%20FAC.pdf>

Comments from Government Officials

Nevada Attorney General Catherine Cortez Masto: “We will hold anyone who cheats Nevada taxpayers accountable. For safety, economic and health reasons, water and sewer lines need to be reliable and sustainable to meet the needs of Nevada’s citizens.”

Los Angeles City Attorney Carmen Trutanich stated he looks forward to recovering damages from the manufacturer for the City of Los Angeles. “If you are going to misrepresent your product standards, you should expect that the City Attorney’s Office will seek the appropriate remedy from the responsible parties.”

San Diego City Attorney Jan Goldsmith: “Millions of dollars of substandard PVC pipe has been sold and installed in San Diego. We have to hold manufacturers who fail to meet their standards and UL obligations accountable.”

False Claims Allegations Against JM Eagle and Formosa Plastics Corp. (USA)

From at least 1996 through 2005, the qui tam lawsuit says, the majority of the PVC pipe JM Eagle’s corporate predecessor, J-M Manufacturing, manufactured and sold to distributors and contractors had “tensile strength” below the minimum required by applicable industry standards and J-M’s contracts. The pipe is used in water and sewer systems that, for the most part, are owned and operated by municipalities and public water districts.

The tensile strength of the pipe is the limit at which stress or pressure on the material will cause the pipe to break. Pipes with weaker tensile strength have a shorter life span, are more likely to fail and will need to be replaced more quickly than pipes manufactured to specification.

The lawsuit alleges J-M deceived its customers by cherry-picking the pipe samples tested by outside certification agencies such as Underwriters Laboratories (UL), International Plumbing and Mechanical Officials and NSF International, while continuing in its day-to-day operations to use a cheaper manufacturing process that produced weaker pipes but enabled the company to increase its profits.

JM Eagle claims to be the world’s largest manufacturer of plastic pipe. Formosa Plastics USA is part of Taiwan’s Formosa Plastics Corp., one of the world’s largest PVC suppliers. Those two companies are largely controlled by the family of the late Taiwanese billionaire Y.C. Wang.

After Mr. Wang’s then-25-year-old son, Walter Wang, became president of J-M Manufacturing, J-M substituted cheaper and lower quality ingredients in its PVC compound and used shortcuts to speed up the manufacturing process even though this hurt the pipes’ tensile strength, the qui tam lawsuit says. Despite these significant production changes, J-M failed to requalify its pipe as industry standards require and instead falsely represented that the pipes were unchanged, according to the lawsuit.

Formosa Plastics required J-M to use its resins and compounds for much of the PVC pipe at issue in this case and actively participated in the fraud, according to the lawsuit.

The whistleblower, John Hendrix, was an engineer in J-M’s product assurance division in New Jersey. J-M fired him less than two weeks after he wrote a memo to company management with concerns that the tensile strength of J-M’s PVC pipe was below that required by UL to qualify for the UL mark stamped on its pipes.

Hendrix, a New Jersey resident, filed his qui tam lawsuit in 2006. Federal and state false claims laws allow private individuals to sue companies that are defrauding government entities and recover damages on the government’s behalf. Under those laws, liable companies may be required to pay as much as three times damages plus penalties.

About Phillips & Cohen LLP

Phillips & Cohen is the nation's most experienced and most successful law firm representing whistleblowers in qui tam lawsuits. Whistleblower cases brought by the firm's lawyers have returned more than \$5.3 billion in civil settlements and criminal penalties to government entities. For more information about Phillips & Cohen, qui tam lawsuits and the False Claims Act, see www.phillipsandcohen.com.

The following 47 government entities have intervened in the whistleblower case:

STATES

- Delaware
- Nevada
- Tennessee
- Virginia

CALIFORNIA CITIES

- Bakersfield
- Calexico
- Chino
- Coachella
- Colton
- Corona
- Livermore
- Oxnard
- Pomona
- Ripon
- Sacramento
- San Bernardino
- San Buenaventura
- San Diego
- San Jose
- San Ramon
- Santa Cruz
- Santa Maria
- Santa Rosa
- Vallejo
- Woodland
- Yountville

CALIFORNIA WATER DISTRICTS

- Alameda County Water District
- Calleguas Municipal Water District
- Castaic Lake Water Agency
- Dublin San Ramon Services District
- Elsinore Valley Municipal Water District
- Florin Resource Conservation District

- Helix Water District
- Irvine Ranch Water District
- Laguna Beach County Water District
- Los Angeles Department of Water & Power
- Moulton Niguel Water District
- North Marin Water District
- Padre Dam Municipal Water District
- Palmdale Water District
- Paradise Irrigation District
- Ramona Municipal Water District
- Rancho California Water District
- South Tahoe Public Utility District
- Sweetwater Authority
- Valley Center Municipal Water District
- Western Municipal Water District

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Case citation: United States and States of California et al. *ex rel.* John Hendrix v. J-M Manufacturing Company, Inc. and Formosa Plastics U.S.A., Case No. ED CV-06-0055-GW (C.D. of CA).

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