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Bird Marella Successfully Defends JM Eagle In High Profile Qui Tam Trial

Bird Marella helped secure a significant victory on behalf of its client JM Eagle, the world's largest plastic pipe manufacturer, in a long-running False Claims Act case. Following a five-week trial in the United States District Court for the Central District of California, federal judge George Wu declared a mistrial after the jury was unable to find that plaintiffs had suffered any damages.

Plaintiffs, consisting of dozens of municipalities and water districts from across the country, had previously asserted damages of over $1 billion based upon claims that JM Eagle had failed to manufacture industry compliant PVC pipe. After a prior liability verdict against the company, five bellwether plaintiffs proceeded to a damages-only phased trial, seeking over $58 million in damages for the cost of immediately removing and replacing all of the pipes in their water systems – notwithstanding that none of the piping at issue had experienced any failures.

During the damages trial, the Bird Marella defense team, along with co-counsel from Paul, Weiss in New York, successfully obtained a ruling from the California federal court that the plaintiffs could not seek damages for the cost of removing and replacing their pipes, because there was no imminent threat of failure, and removal and replacement costs constitute impermissible consequential damages under the False Claims Act. As a result of the court's rulings, plaintiffs' damages claims were reduced from $58 million to only $2 million (the cost of the pipes themselves) on the eve of closing arguments. Following closings and after five full days of deliberations, the jury was unable to agree about whether plaintiffs were entitled to recover even that reduced sum, and the court declared a mistrial.

Bird Marella has represented JM Eagle in the matter since 2011. The Bird Marella defense team was led by principals Paul Chan and Ekwan Rhow, along with attorneys Marc Masters, Shoshana Bannett, Kate Shin, and Paul Moskowitz.