

# Pipe Co. Blamed For Seattle Jail Plumbing Fiasco At Trial

By [Rachel Riley](#) ·

Law360 (May 17, 2023, 10:04 PM EDT) -- The county that includes Seattle told a Washington state jury Wednesday that it wants \$36 million from a German manufacturer whose polypropylene piping began rotting "from the inside out" soon after 6 miles of the product was installed in a jail a little over a decade ago.

Randall T. Thomsen of [Harrigan Leyh Farmer & Thomsen LLP](#), representing King County, said during opening arguments in state Superior Court that Aquatherm GmbH promised a product lifetime of 50 years, but hasn't honored any of its warranties since the plastic pipes began failing and ultimately had to be replaced with another kind. The company has denied any blame, Thomsen said, even as its product has repeatedly suffered similar corrosion by copper particles in buildings all over the world, from the [Hollywood Roosevelt Hotel](#) to a hospital in Australia.

"Aquatherm has a pattern of doing the same thing: making promises, not fulfilling those promises — the product fails — and pointing fingers at others," Thomsen said.

Aquatherm's counsel also opened with an emphasis on accountability — the county's. Anne Cohen of [Betts Patterson & Mines PS](#) said in opening arguments that the pipes malfunctioned due to repeated lapses by King County and its contractors, who did not follow installment instructions or product specifications that warned the pipes could potentially fail under high pressure and temperatures.

Aquatherm's warranties only cover manufacturing defects, Cohen told the jury, not problems resulting from improper installation and maintenance.

The county, which first sued the company and affiliated entities in March 2019, alleges it spent more than \$18 million on Aquatherm piping to replace the leaky copper pipes that were installed with the jail's original construction in 1986. The downtown Seattle jail is the city's largest correctional facility, housing more than 1,000 people awaiting trial, two courtrooms and a small homeless shelter.

The trial is expected to last six weeks, and to include testimony from more than 80 witnesses and nearly 4,000 exhibits.

The county claims Aquatherm was aware of its product's fatal flaw since at least 2010, when it observed at Australian project sites that the piping was susceptible to rotting triggered by copper and heat through a chemical process known as copper-catalyzed thermal oxidation. A national sales manager later called the issue a "ticking time bomb," Thomsen said.

Still, the county says it was promised by Aquatherm that the pipes could withstand high temperatures and potent chemicals — qualities that "virtually eliminated the possibility of material failure" for 50 years.

Thomsen said the project manager and design consultant who chose Aquatherm wanted a material that would last the remainder of the facility's lifetime, be more resilient than copper piping and withstand Seattle's harsh "soft water," Thomsen said. At the time the county was looking at its piping options, Aquatherm was branching out from Europe into the North American market and saw an opportunity to be viewed as a solution for ailing copper pipe systems in Seattle and elsewhere, Thomsen said.

The county says that Aquatherm's representatives, including its American distributor, were in frequent contact with the project team during the installation in 2011-12, but never told the county about the copper corrosion risk. A county employee found a one-page notice about the potential problem on the company website in 2012, Thomsen said, but the bulletin was vague and highly technical. Since the project was removing the vast majority of the copper piping, the county surmised the notice was irrelevant.

But Aquatherm contended that notice was one of several technical warnings that the county failed to heed regarding the product's potential to deteriorate when subjected to extreme heat and water moving at high speeds — common conditions in the jail's long-problematic hot water distribution system, Cohen said.

"These are the exact same problems that caused the original copper piping to corrode," Cohen said during her opening argument.

The county's 2011-12 repiping project was "a mess from the beginning," she said. The government had failed to maintain plumbing records from the building's original construction, so its contractors encountered surprises, including a slew of copper piping segments that had been installed in recent years in the hottest part of the jail's water distribution system. According to Cohen, the county decided not to replace the newer copper piping segments in a last-minute bid to save \$200,000, despite the notice advising of the potential reaction with copper at high temperatures.

Aquatherm also claims the pipes were installed with the wrong fasteners, which lacked cushions to protect the polypropylene from the metal hardware and stoppers that would prevent them from being wound too tightly. Over time, the plastic tubes were crushed as heat expanded them, Cohen explained.

But according to the county, Aquatherm worked alongside its contractors on the installation and extended nine warranties, each worth €15 million (now \$16.26 million), covering the pipes.

With dozens of leaks by 2018 and facing the prospect of water unexpectedly disabling the jail's electronic security systems, the county made the "prudent" decision to replace the plastic piping, Thomsen said. The county is seeking \$36 million, he explained to jurors, because the government expects it will have to pay another \$18 million to replace the entire system for a third time to reach the end of Aquatherm's 50-year warranty term.

During the trial, the county will present evidence that Aquatherm sells its pipes with fittings made of yellow brass, a copper alloy that can activate the oxidation process, Thomsen said. The county will also argue that the pipes lack key antioxidants that would have prevented the rot and don't meet safety standards for polypropylene pipes carrying drinking water, he said.

Aquatherm intends to prove that the product's formula meets those safety standards, however, and that the piping has been successfully used alongside copper pipes in other projects that have adhered to the manufacturer's technical specifications, Cohen said. The manufacturer also said it has evidence that King County plumbers have even effectively used Aquatherm piping to replace sections of copper piping at a satellite correctional facility in the Seattle suburb of Kent.

King County is represented by Randall T. Thomsen, Ariel Martinez, Timothy G. Leyh, Tyler L. Farmer and Erica R. Iverson of Harrigan Leyh Farmer & Thomsen LLP.

Aquatherm GmbH and its subsidiaries are represented by Anne Cohen and Sharlei C. Hsu of Betts Patterson & Mines PS and Gabriella Wagner and Sharon Ambrosia-Walt of [Wilson Smith Cochran Dickerson](#).

The case is King County v. Aquatherm GmbH et al., case number 19-2-07910-0, in King County Superior Court.

--Editing by Scott Russell.