

SUPREME COURT  
**FILED**

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S218176

**IN THE  
SUPREME COURT OF CALIFORNIA**

Frank A. McGuire Clerk  
Deputy

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**FLAVIO RAMOS et al.,**  
*Plaintiffs and Appellants,*

v.

**BRENNTAG SPECIALTIES, INC. et al.,**  
*Defendants and Respondents.*

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AFTER A DECISION BY THE COURT OF APPEAL,  
SECOND APPELLATE DISTRICT, DIVISION FOUR, CASE NO. B248038

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**DEFENDANT AND RESPONDENT SOUTHWIRE  
COMPANY'S JOINDER IN THE OPENING BRIEF ON THE  
MERITS OF DEFENDANT AND RESPONDENT ALCOA,  
INC.**



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**SOUTHWIRE COMPANY**

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ON THE MERITS OF DEFENDANT AND  
RESPONDENT ALCOA, INC.**

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Defendant and respondent SOUTHWIRE COMPANY hereby joins in the Opening Brief on the Merits filed by defendant and respondent Alcoa, Inc. This joinder is filed pursuant to California Rules of Court, rule 8.200(a)(5), to avoid duplication and needless waste of paper, and yet to protect the interests of defendant and respondent SOUTHWIRE COMPANY.

By this joinder, respondent SOUTHWIRE COMPANY hereby joins in and incorporates by reference the entire Opening Brief on the Merits filed by Alcoa, Inc.

SOUTHWIRE COMPANY is similarly situated to Alcoa, Inc. in that plaintiffs make identical allegations as to each defendant, and SOUTHWIRE COMPANY, like Alcoa, supplied raw materials

for a manufacturing process undertaken by plaintiff's employer, who exercised total control over the process that allegedly gave rise to plaintiff's claimed injuries. {9AA 2275:1 through 2276:19 and 2281:4 through 2291:21} (See also, Typed opn. 3-4.) The grounds set forth in the Opening Brief on the Merits are equally available to SOUTHWIRE COMPANY.

Specifically, the allegations of the operative complaint directed to the aluminum supplying defendants – including Alcoa, Inc., Southwire Company and Century Kentucky - allege each provided aluminum ingots to plaintiff's employer, which were then melted to a molten state and repurposed by plaintiff's employer into products of its specification. (Typed opn. 4, 17) Southwire Company had no control over the design of plaintiff's employer's product, nor the process by which that product was made, including the change in nature of the aluminum ingots supplied by Southwire Company.

Workers injured on the job during the manipulation of non-defective raw materials for creation of or incorporation into new finished products should not be allowed to sue the suppliers of the non-defective raw materials because the suppliers lack control over the manipulation of their products and it is the manipulation of the product, not its raw form, that allegedly caused harm.

The proper rule is set forth in *Maxton v. Western States Metals* (2012) 203 Cal.App.4th 81, “[i]nappropriate decisions regarding the use of [raw] materials are not attributable to the supplier of the raw materials but rather to the fabricator that puts them to improper use.” (*Maxton, supra*, 203 Cal.App.4th at p. 90, quoting Rest.3d Torts, Products Liability § 5, com. c, p. 134.)

This court should reverse the ruling by Division Four of the Second Appellate District improperly expands the duties of raw material suppliers based on mistakes of law and fact.

September 5, 2014

**BATES WINTER & MISTRETTA LLP**  
DAVID L. WINTER, ESQ.

By:   
\_\_\_\_\_  
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Attorneys for Defendant and Respondent  
SOUTHWIRE COMPANY

PROOF OF SERVICE

Re: *Ramos v. Brenntag Specialties, et al.*  
Los Angeles County Superior Court, Case No. BC449958

STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF PLACER                    )

I am employed in the County of Placer, State of California. I am over the age of 18 years and not a party to the within above-entitled action; my business address is 925 Highland Pointe Drive, Suite 380, Roseville, CA 95678.

On September 5, 2014, I served a true and correct copy of the following document:

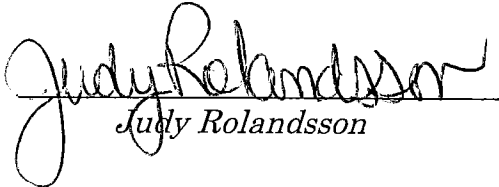
**DEFENDANT AND RESPONDENT SOUTHWIRE COMPANY'S  
JOINDER IN THE OPENING BRIEF ON THE MERITS OF  
DEFENDANT AND RESPONDENT ALCOA, INC.**

The document was served by the following means on the following parties as set forth on the attached Service List:

XX (BY MAIL) I caused copies of such document, enclosed in a sealed envelopes to be deposited in the mail at Roseville, California, with postage thereon fully prepaid to the persons and addresses indicated on the attached list. I am "readily familiar" with this firm's practice of processing correspondence for mailing. Under that practice it is deposited with the U.S. postal service on the same day with postage fully prepaid at Roseville, California, in the ordinary course of business. I am aware that on motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing set forth in this affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 5, 2014, at Roseville, California.

  
Judy Rolandsson

Re: *Ramos v. Brenntag Specialties, et al.*  
Superior Court Case No. BC449958  
Court of Appeal Case No. B248038

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