

SUPREME COURT
FILED

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S218176

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**IN THE
SUPREME COURT OF CALIFORNIA**

FLAVIO RAMOS et al.,
Plaintiffs and Appellants,

v.

BRENTAG SPECIALTIES, INC. et al.,
Defendants and Respondents.

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

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**JOINDER BY DEFENDANT AND RESPONDENT
LAGUNA CLAY COMPANY TO THE REPLY BRIEF ON
THE MERITS FILED BY DEFENDANT AND
RESPONDENT ALCOA, INC.**

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COMPANY TO THE REPLY BRIEF ON
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AND RESPONDENT ALCOA, INC.**

Pursuant to California Rules of Court, rule 8.200(a)(5), Defendant and Respondent Laguna Clay Company, respectfully joins the arguments presented in the Reply Brief filed by Defendant and Respondent Alcoa Inc.

Both Alcoa Inc. and Laguna Clay Company are identified by Appellants as suppliers of raw materials used in manufacturing at Plaintiff Flavio Ramos' place of employment. The factual basis, legal authority, and argument set forth by Respondent Alcoa Inc. in its Reply Brief apply equally to Laguna Clay Company.

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At trial, Laguna Clay Company joined in Alcoa Inc.'s demurrer to the Fourth Amended Complaint which resulted in judgment being entered in favor of all defendants based on the court of appeal's holding in *Maxton v. Western States Metals, et al.* (2012) 203 Cal.App.4th 81. In *Maxton*, a supplier of raw material was found to be not liable under products liability causes of action to an employee for workplace exposure from manufacturing activities absent specific exceptions.

Based upon *Maxton's* holding, the trial court correctly determined Plaintiffs' Fourth Amended Complaint could not have been amended in a way that would cure its defects and state a valid cause of action. On appeal, Division Four of the Second Appellate District of the Court of Appeal reversed. The California Supreme Court then granted Alcoa Inc.'s Petition for Review, which Laguna Clay Company properly joined. Laguna Clay also properly joined Alcoa Inc.'s Opening Brief on the Merits before this Court.

Laguna Clay joins Alcoa's Reply Brief because, like Alcoa's aluminum product, the sole product supplied by Laguna Clay Company to which Appellant Flavio Ramos claims exposure – ground limestone – is a raw material to which the component parts doctrine/raw material supplier doctrine applies. Indeed, both *Maxton* and the Restatement (Third) of Torts, Products Liability, from which the defense is derived, recognize that sand and gravel are quintessential raw materials that cannot be defectively designed and to which this doctrine applies.

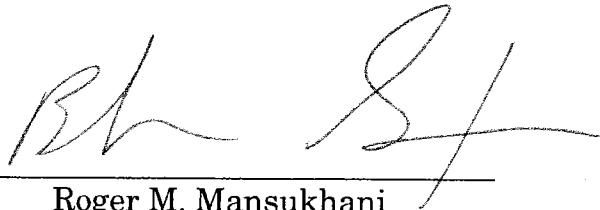
Respondent Laguna Clay Company respectfully incorporates by reference, as though set forth in full, Alcoa Inc.'s Reply Brief and all other papers filed by Alcoa, Inc. before this Court. For the reasons stated, Laguna Clay Company requests that the Court reverse the ruling by Division Four of the Second Appellate District as it improperly expands the duties of a raw material suppliers based on mistakes of law

and fact.

February 12, 2015

GORDON & REES LLP

By: _____

Handwritten signatures of Roger M. Mansukhani and Matthew G. Kleiner.

Roger M. Mansukhani

Matthew G. Kleiner

Brandon D. Saxon

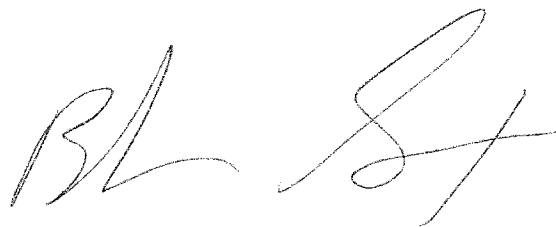
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CERTIFICATE OF WORD COUNT
(Cal. Rules of Court, rule 8.520(c).)

The text of this brief consists of 389 words as counted by the Microsoft Word version 2010 word processing program used to generate the brief.

Dated: February 12, 2015

A handwritten signature in black ink, appearing to read 'BL Saxon', written over a horizontal line.

Brandon D. Saxon

Ramos, et al. v. Brenntag, et al.
Supreme Court of California
California Court of Appeal, Second Dist., Div.4, Case No. B248038
Los Angeles County Superior Court Case No. BC449958

PROOF OF SERVICE

I, the undersigned, say: I am over 18 years of age, employed in the County of San Diego, California, in which the within-mentioned service occurred; and that I am not a party to the subject cause. My business address is Gordon & Rees LLP, 101 West Broadway, Ste. 2000, San Diego, CA 92101. On February 12, 2015, I served true and correct copy of the following document(s):

JOINDER BY DEFENDANT AND RESPONDENT LAGUNA CLAY COMPANY IN THE REPLY BRIEF ON THE MERITS FILED BY DEFENDANT AND RESPONDENT ALCOA, INC.

- (X) **BY FIRST CLASS MAIL** (C.C.P. §1013a, et seq.): I caused said document(s) to be deposited in the United States mail in a sealed envelope with postage fully prepaid at San Francisco, California, following the ordinary practice at my place of business of collection and processing of mail with the U.S. Postal Service on the same day as shown on this declaration (**SEE SERVICE LIST**):
- (X) **BY FEDERAL EXPRESS SERVICE CARRIER** (C.C.P. §1013(c), et seq.; and CRC 8.25(b)(3)(A)): I caused said document(s) to be deposited with an express service carrier in a sealed envelope designed by the carrier, with fees and postage prepaid at San Diego, California, on the same day as shown on this declaration (**TO THE SUPREME COURT ONLY**)
- () **BY PERSONAL SERVICE**. I caused said document(s) to be hand-delivered to the addressee pursuant to Code of Civil Procedure §1011. (**TO THE SUPREME COURT ONLY**)

SEE ATTACHED SERVICE LIST

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

Executed on February 12, 2015, at San Diego, California.



Denise A. Arviso

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Ramos, Flavio, et al. v. Brenntag Specialties, Inc., et al.

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