

S218176

**IN THE  
SUPREME COURT OF CALIFORNIA**

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

v.

**BRENTAG 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

5th

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**DEFENDANT AND RESPONDENT J. R. SIMPLOT COMPANY'S  
JOINDER IN THE REPLY BRIEF ON THE MERITS OF  
DEFENDANT AND RESPONDENT ALCOA, INC.**

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**DEFENDANT AND RESPONDENT J. R. SIMPLOT  
COMPANY'S JOINDER IN THE REPLY BRIEF ON  
THE MERITS OF DEFENDANT AND RESPONDENT  
ALCOA, INC.**

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Defendant and respondent J. R. SIMPLOT COMPANY hereby joins in the Reply 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 J. R. SIMPLOT COMPANY.

By this joinder, respondent J. R. SIMPLOT COMPANY hereby joins in and incorporates by reference the entire Reply Brief on the Merits.

J. R. SIMPLOT COMPANY (hereinafter "SIMPLOT") is similarly situated to Alcoa, Inc. in that plaintiffs make identical allegations as to each defendant, and SIMPLOT, 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. The grounds set forth in the Reply Brief on the Merits are equally available to SIMPLOT.

Mr. Ramos worked as a mold maker, machine operator and laborer at Supreme Castings from 1972 to 1978 and 1981 to 2009. [9 AA 2280] During his employment, Ramos worked with and around various sand, plaster, and metal products. [9 AA 2280] Appellants allege that SIMPLOT supplied silica sands to Mr. Ramos' employer, Supreme Castings. [9 AA 2272]

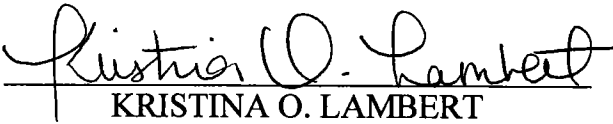
Defendant SIMPLOT is a manufacturer and supplier of silica sand, one of the most abundant raw materials on Earth. Silica sand is used in innumerable ways in industrial processes, and it is a building block of countless products and industries, including manufacture of glass (bottles, mirrors, windows, light bulbs, fiberglass), ceramics (tableware and ornaments), construction (concrete and tiles), water filtration systems, adhesives, molds, crude oil extraction, and sports facilities (volleyball courts and golf courses). Indeed, courts have expressly identified sand as a "versatile", "basic raw material". *Maxton*, 203 Cal.App.4th at 90; *Arena v. Owens Corning Fiberglas Corp.* (1998) 63 Cal.App.4th 1178, 1190; *In re TMJ Implants Products Liability Litigation* (1996) 97 F.3d 1050, 1057.

It is hard to imagine life without the many uses of silica sand. Plaintiffs have identified no defect in the silica sand sold by SIMPLOT, nor is there anything inherently dangerous about silica sand. Nor does SIMPLOT have any influence or control over the innumerable manufacturing processes undertaken by the purchasers of its silica sand, including Mr. Ramos's employer.

Therefore, 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, and should be reversed.

February 10, 2015

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By:   
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## PROOF OF SERVICE

I am employed in the County of San Joaquin, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 1111 West Tokay Street, Lodi, California, 95240.

On February 12, 2015, I served the foregoing documents, described as: DEFENDANT AND RESPONDENT J. R. SIMPLOT COMPANY'S JOINDER IN THE REPLY BRIEF ON THE MERITS OF DEFENDANT AND RESPONDENT ALCOA, INC. on the parties to this action as follows:

**(BY MAIL)** I caused copies of such document, enclosed in sealed envelopes, to be deposited in the mail at Lodi, California, with postage thereon fully prepaid to the persons and addresses indicated on the attached list. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with U. S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of any part 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.

**(BY FACSIMILE)** I served the foregoing document by faxing true copies thereof from facsimile number (209) 333-1034, to the facsimile numbers indicated on the attached list. Said document was transmitted by facsimile transmission, which was reported complete and without error.

**(BY PERSONAL SERVICE)** I caused to be delivered such document by hand to the firms listed on the attached list where personal service is indicated.

**(BY E-MAIL)** I delivered such document by electronic mail to the firms listed on the attached list.

**(BY OVERNIGHT MAIL)** I caused such document to be delivered to the firms indicated on the attached list by Express Mail or by another express service carrier, by placing the document in an envelope designated by the carrier and addressed as indicated on the attached list, with the delivery fees provided for, and depositing same in a box or facility regularly maintained by that carrier or by delivering same to an authorized courier or driver authorized by the carrier to receive documents.

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 Lodi, California.

  
SANDRA L. WAGNER

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