

S218176

IN THE
SUPREME COURT OF CALIFORNIA

FLAVIO RAMOS et al.,
Plaintiffs and Appellants,

v.

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

SUPREME COURT
FILED

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

672
DEFENDANT AND RESPONDENT SOUTHWIRE
COMPANY'S JOINDER IN THE REPLY BRIEF ON THE
MERITS OF DEFENDANT AND RESPONDENT ALCOA,
INC.

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SOUTHWIRE COMPANY

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

Defendant and Respondent SOUTHWIRE COMPANY (hereinafter, "Southwire") hereby joins in the Reply Brief on the Merits filed by Defendant and Respondent ALCOA, INC (hereinafter, "Alcoa"). 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 Southwire.

By this joinder, respondent Southwire hereby joins in and incorporates by reference the entire Reply Brief on the Merits filed by Alcoa.

Southwire is similarly situated to Alcoa in that Plaintiffs FLAVIO RAMOS, et al., make identical allegations as to each, and Southwire, like Alcoa, supplied raw materials for a manufacturing

process undertaken by Plaintiff Flavio Ramos' 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 legal basis and reasoning set forth in Alcoa's Reply Brief on the Merits is equally available to Southwire.

Specifically, the allegations of the operative complaint directed to the aluminum supplying defendants – including Alcoa, Inc., Southwire 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 had no control over the design of Plaintiff's employer's product, nor the process by which that product was made, including the melting of the aluminum ingots supplied by Southwire, which process changed the nature of the ingots.

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 for all of the reasons set forth in Alcoa's Reply Brief on the Merits. Further, a supplier of raw materials, like Southwire, owes no duty to warn an employee of a purchaser of those raw materials where the purchaser of the materials is a sophisticated manufacturer whose own manufacturing process changes the nature of the raw material and creates a hazard. The employee is protected by his own employer's specific and superior knowledge of the dangers the manufacturing process creates, the

employer's duty to provide a safe place to work, and the protections of the workers compensation system for injuries arising from his employer's plan, process and procedures in manipulation of the non-defective raw materials.

The Court should reverse the Court of Appeal and uphold the trial court's sustaining of the demurrer and dismissal of Plaintiffs' claims with prejudice.

Dated: February 13, 2015 **BATES WINTER & MISTRETTA LLP**
DAVID L. WINTER, ESQ.

By: 

DAVID L. WINTER (SBN 89867)

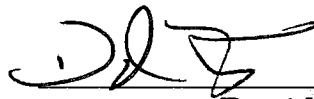
Attorneys for Defendant and Respondent
SOUTHWIRE COMPANY

CERTIFICATE OF WORD COUNT

(Cal. Rules of Court, rule 8.520(c).)

The text of this brief consists of 1922 words as counted by the Microsoft Word version 2013 word processing program used to generate the brief.

Dated: February 13, 2015

A handwritten signature in black ink, appearing to read 'DLW', is written above a horizontal line.

David L. Winter

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 February 13, 2015, I served a true and correct copy of the following document:

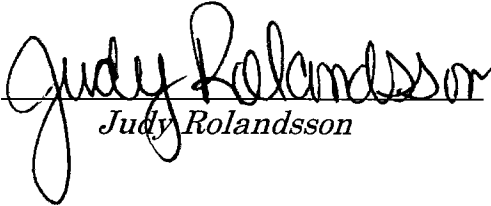
**DEFENDANT AND RESPONDENT SOUTHWIRE COMPANY'S
JOINDER IN THE REPLY BRIEF ON THE MERITS OF
DEFENDANT AND RESPONDENT ALCOA, INC.**

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 February 13, 2015, 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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<p>The Court of Appeal Second Appellate District 300 South Spring Street, 2nd Fl., N. Tower Los Angeles, CA 90013 <i>(Via U.S. Mail; one copy)</i></p>	
<p>Supreme Court of California 350 McAllister Street San Francisco, CA 94102-4797 <i>(Via Federal Express; original and eight copies)</i></p>	